

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.747 of 2023

Arising Out of PS. Case No.-66 Year-2022 Thana- MAHILA PS District- Gaya

Wilson Kumar @ Wilshan Kumar S/o Rajdeo Chaudhary @ Rajdev Chaudhary R/o Village- Naser, P.S.- Gurua, Distt- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Adv.

For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 05-04-2023 Heard Mr. Arvind Kumar Singh, learned counsel appearing on behalf of the petitioner and Md. Matloob Rab, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with Mahila Thana P.S. Case No. 66 of 2022 registered for the offences punishable under Sections 376, 493, 504 and 506/34 of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that the petitioner used to visit her house after the death of her father. It is further alleged that on 24.11.2020, this petitioner has committed rape upon her and thereafter on the pretext of marriage, he continued physical relationship with the informant and when she asked to marry, he refused and when she complaint about the alleged occurrence to



the parents of the petitioner, they abused and assaulted her.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, admittedly, both the parties have been in relationship for the last two years and first time even as per the allegation, she was subjected to rape on 24.11.2020, but the present FIR has been instituted on 27.07.2022, that too when the petitioner refused to solemnize marriage with her. He further submits that, in fact, both the parties are major and it was consensual sexual relationship which continued for a pretty long time but on account of refusal made by the parents of the petitioner to perform marriage of the petitioner with the victim, the instant FIR has been instituted. He next submits that neither the victim has been examined by the doctor nor at any point of time she made any complaint with regard to her exploitation to any of the person. He also submits that the petitioner is in custody since 27.07.2022.

On the other hand, learned counsel for the State vehemently opposed the bail application and submits that admittedly, the petitioner on the pretext of false promise of marriage, made illicit relationship with the victim and, in fact, committed rape upon her, apart from the fact that the petitioner is carrying a criminal antecedent as has been mentioned in para-



3 of the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that both the parties are major and *prima facie* the relationship appears to be consensual, apart from the fact that investigation of the crime is complete and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Gaya in connection with Mahila Thana P.S. Case No. 66 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal



antecedent of the petitioner and, in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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