

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19419 of 2024

Arising Out of PS. Case No.-529 Year-2023 Thana- MUFFASIL District- West Champaran

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Sujeet Kumar, S/O Bijli Patel R/O Village- Noorakhap Nawka Tola, Ward No.-21, Post- Sansariya, P.S- Bettiah Muffasil, Distt.- West Chmaparan At Bettiah.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Binay Kumar
For the Opposite Party/s :	Dr. Mrityunjaya Kr. Gautam
	Mr. Bimlesh Kumar Pandey
	Mr. Krishna Kant Pandey
	Mr. Amit Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 30-04-2024 1. Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.
2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 376 and 406 of the Indian Penal Code.
3. The learned counsel for the petitioner submits that the petitioner was married to the elder sister of the informant and out of the wedlock, a child was born, but then, at the time of the delivery of the child, the wife of the petitioner left for her heavenly abode. It is next submitted that the informant alleges that the petitioner, being her brother in-law, brought the informant to his house with a view to take care of the infant



child and during the said period, he assured that he will marry her on account of which, they came in a relationship and even established physical relation.

4. The learned counsel for the petitioner next submits that no doubt, for sometime the informant had come to the house of the petitioner for looking after the child, but then, the allegation of establishing physical relation on pretext of marriage is false and fabricated and for a said purposes relies on Annexure-2 to the anticipatory bail application, which is a *Panchnama* dated 29.01.2023, which was entered in between the family members of the petitioner and the informant. It is submitted that on the said *Panchnama*, the father of the informant has also signed wherein it was agreed that the child who was born on 09.10.2022 shall stay with her maternal grand parents and grandfather and father (petitioner) of the child shall pay a monthly maintenance of Rs.8,000/- towards maintenance of the child and will also deposit an amount of Rs.7 Lacs in a Nationalized Bank in the name of the child, so that the money can be utilized at the time of her marriage and further, one person from the side of the petitioner and one person from the side of the father of the informant shall be the nominee in the fixed deposit. It is also submitted that the *Panchanama* also



recorded that the petitioner would be free to perform his marriage.

5. The learned counsel for the petitioner thus submits that the *Panchanama* is dated 29.01.2023 on which the father of the informant had also signed and if the petitioner had allured the informant to establish physical relation on pretext of marriage, then definitely the informant would have objected to the *Panchnama*, wherein it was agreed that petitioner can perform his second marriage. It is further submitted that had the informant been in relationship with the petitioner, then she would have disclosed the said fact to her parents including her father that petitioner had assured her of marriage, in that condition, the father of the informant would never have permitted the petitioner to perform his second marriage, nor would have agreed for taking a monthly maintenance of Rs.8,000/- for the maintenance of the child and to get an amount of Rs.7 Lacs deposited in fixed deposit for future of the child as the informant would have taken place of her sister in the life of the petitioner. The learned counsel also submits that the *Panchnama* is dated 29.01.2023 and the instant F.I.R. came to be instituted on 03.08.2023 i.e. after more than six months of the *Panchnama* being entered in between the parties. It is also



submitted that it does not appear probable that the father of the informant would not have disclosed about the conditions of the *Panchnama* to his family including the informant. It is next submitted that the informant despite being aware of the contents of the *Panchnama* chose not to institute any F.I.R. instantly, but then, it appears that the instant F.I.R. by way of after thought came to be instituted. It is also submitted that the falsity of the allegation also manifests from the fact that the condition in which the informant had gone to the house of the petitioner was on a solemn occasion and as such, it does not appear probable that the petitioner or the informant would have been in such a frame of mind where petitioner would have established physical relation on pretext of marriage and the informant would have allowed.

6. It is submitted that no sister after the death of her own sister would be in a frame of mind to indulge in such a relationship. On query of the Court that as to whether the petitioner has fulfilled the condition of *Panchnama* or not. The learned counsel for the petitioner submits that the petitioner had been paying the monthly maintenance as agreed, but on account of institution of the instant case, the same got disrupted and even the fixed deposit of Rs.7 Lacs could not be made, but then,



submits that petitioner is willing to clear all the arrears of maintenance and will also pay the maintenance as agreed regularly and shall open a fix deposit of an amount of Rs.7 Lacs in a Nationalized Bank in the name of the child.

7. The learned counsel for the petitioner further submits that the case was taken up on 15.04.2024, when some of the facts as recorded herein above was also recorded in the order dated 15.04.2024 and the issue of *Panchnama* was raised on which the learned counsel appearing on behalf of the informant had sought time for seeking instruction in the matter with regard to the genuineness of the *Panchnama*.

8. The learned counsel appearing on behalf of the informant does not dispute the genuineness of the *Panchnama*, but then, submits that informant was not present at the place where *Panchnama* was executed or else she would have objected, but then, the learned counsel for the opposite party no.2 is not in a position to rebut the submission of the learned counsel for the petitioner that why an F.I.R. was not instituted instantly after execution of the *Panchnama* which cast an aspersion on the case of the prosecution.

9. Be that as it may, considering the submissions made by the learned counsel for the petitioner, the petitioner,



above-named, in the event of his arrest or surrender before the learned Court below within a period of twelve weeks from today, is directed to be released on **provisional anticipatory bail** on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., West Champaran at Bettiah in connection with Bettiah Muffasil P. S. Case No.529 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

11. However, in the event, if the petitioner is not able to satisfy the learned trial Court within a period of sixteen weeks of his surrender that he has cleared all the arrears of monthly maintenance of Rs.8,000/- and is also paying the maintenance and has opened a fixed deposit in name of the child of Rs.7 Lacs, in that event, the learned trial Court shall be at liberty to cancel the provisional anticipatory bail bonds of the petitioner and shall take all coercive steps to ensure that the petitioner is behind bars.

(Satyavrat Verma, J)

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