

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19761 of 2024

Arising Out of PS. Case No.-52 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

DIVYAM KUMAR CHOUDHARY @ JULIOUS @ DIVYAM KUMAR S/o
Manoranjana Choudhary R/o Village-Bangay (Vishwaspur), P.S.-Sahkund,
Distt-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. **SAKSHI KUMARI D/o Rajendra Singh R/o Vill-Kharaia, P.O. and P.S.-**
Akbarnagar, Dist-Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Anand, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 02-07-2024 1. Heard learned counsel for the petitioner, Mr. Chandra Bhushan Prasad learned A.P.P. for the State and Ms. Pravina Kumari learned counsel appearing on behalf of the informant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 376 and 498(A)/34 of the Indian Penal Code as well as Sections 3 and 4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner submits that petitioner has antecedent of one case and has been falsely implicated in the instant case. It is further submitted that the informant alleges that from past few years the petitioner, who was staying in the informant's maternal grandmother's house, was sexually exploiting her on assurance of marriage, when the



informant protested and denied establishing physical relation the petitioner assured to marry her thereafter frequent meetings took place at informant's maternal grandmother's house and A Wahab Hotel. It is next alleged that while petitioner and the informant were staying in the hotel on 05.11.2023 when their family members came to know about their relationship thereafter informant's family gave Rs.4 lakh to the petitioner for marriage and thereafter on 27.01.2023 both were married in a temple at Bhagalpur. It is further alleged that petitioner did not accept the marriage and demanded more dowry.

4. Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the relationship was consensual. Learned counsel based on instruction does not dispute that petitioner and the informant got married in a temple. It is further submitted that after the marriage, it appears that the informant for some ulterior reason instituted the instant case alleging rape. It is next submitted that petitioner is aware of his responsibility and if the informant is ready to restitute her conjugal right, the petitioner will have no issue.

5. Learned counsel appearing on behalf of the opposite party no. 2 submits that though the marriage was performed in the temple but then petitioner is not taking back the informant on



which the learned counsel appearing on behalf of the petitioner submits that when petitioner is not denying his marriage in the temple that amply demonstrates that petitioner is ready to keep the informant with honour and dignity.

6. 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 six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bhagalpur Mahila P.S. Case No. 52 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, the opposite party no. 2 shall be at liberty to file an application seeking cancellation of the anticipatory bail granted to the petitioner if the petitioner refused to keep the informant with himself.

(Satyavrat Verma, J)

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