

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16344 of 2024**

Arising Out of PS. Case No.-148 Year-2016 Thana- SINGHWARA District- Darbhanga

Md. Sultan @ Sultan Rashid @ Sultan, aged about 33 years, Male, Son of
Md. Haroon @ Haroon Rashid, Resident of Village - Sanahpur, Buzurg, P.S. -
Singhwara, District – Darbhanga.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Iqbal Asif Niazi, Advocate

For the Opposite Party : Mr. Awadhesh Kumar Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 30-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Sessions Trial No. 642 of 2023, arising out of Singhwara P.S.
Case No. 148 of 2016 registered for the offences punishable
under Sections 341, 323, 376 and 504/34 of the I.P.C.

3. As per the prosecution case, the informant was
residing in her *Nanihal* for her education and the petitioner's
sister was married in that village, so, he used to go at his sister's
residence and in that course, he developed relationship with the
informant. Subsequently, the petitioner brought the informant at
Darbhanga by his motorcycle and got her acquainted with his
parents. It is further alleged that about six months ago, the



petitioner again brought her at Darbhanga and took her in a *Government Madarsa*, a lonely place and forcibly committed rape on her. The informant told him that she would disclose the incident to her parents on which, he assured her to marry. Thereafter, the petitioner committed rape several times. It is further alleged that the informant narrated the entire incident to her mother who took the informant to the residence of the petitioner and made complaint to her parents but they abused and assaulted the informant's family members.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that as per the F.I.R. itself, it appears that for about two years the petitioner is said to have indulged in physical relationship with the informant on the pretext of false marriage but no complaint whatsoever at any point of time was lodged before the competent authority. The present case has been lodged on 16.09.2016 as to when the occurrence took place six months before from 16.09.2016 meaning thereby in the month of March, 2016 and the delay in lodging of the F.I.R. has not been explained by the prosecution which shows that the present case is nothing but afterthought story with full of concoction and fabrication. It is further submitted that there was



love between the parties and the informant wants to marry him but the family members of the petitioner was not ready for the same which caused great annoyance to the informant. Therefore, the informant has filed the present case against the petitioner for committing rape on her. The statement of the victim has been recorded under Section 161 of the Cr.P.C. in which she has categorically accepted the factum of her relationship with the petitioner and also about the marriage proposal which was not accepted by the petitioner. The victim was also medically examined in D.M.C.H. by the doctor and the doctor has found the age of the informant in between 18 to 19 years and there is no positive evidence to suggest commission of recent sexual intercourse. It is further submitted that during the course of investigation, it has come that the informant was in love relationship with the petitioner and they used to talk to each other on phone calls. It is submitted that the informant is a major girl who knew the consequence of the act of the petitioner. Learned counsel for the petitioner has further submitted that the informant and the petitioner chose to have physical relationship with their own will. Learned counsel for the petitioner placed reliance on the judgement in the case of ***Mandar Deepak Pawar Vs. State of Maharashtra & Anr.***



(Criminal Appeal No. 442 of 2022) in which “a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled.” The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 04.10.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and has further submitted that the petitioner committed rape on the informant forcibly. On being objected, the petitioner promised to marry the informant. The petitioner kept on committing rape on her by making false promise despite her protest. Lastly, the petitioner denied to marry her. It is further submitted that from perusal of the medical examination report of the victim, it appears that the doctor has found the ‘age of the informant in between 18 to 19 years. No definite opinion can be given about rape’. It is further submitted by learned A.P.P. for the State that the statement of the victim recorded under Section 161 of the Cr.P.C. appears to be fake as the signature of the informant was taken on the said statement. He has relied upon the judgment in the case of **Karthi @ Karthick Vs. State Represented by Inspector of**



Police, Tamil Nadu, reported in *(2013) 12 S.C.C. 710*, passed in *Cr. Appeal No. 601 of 2008, decided on July 1, 2013* in which the Hon'ble Apex Court has held:- Sections 376 and 417 of the I.P.C.-Rape and Cheating- Obtaining consent for having sex by exercising deceit i.e., false promise of marriage-Cannot be legitimate defence to exculpate accused-Promise by accused to marry prosecutrix after committing rape- Thereafter, accused repeatedly engaged in consensual sexual intercourse with prosecutrix, at different places, on false promise of marriage- Eventual refusal by accused to marry-Prosecutrix divulging incident to her family-Credible testimony of prosecutrix and other witnesses-Conviction for rape and cheating, confirmed."

6. Considering the aforesaid facts and circumstances of the case as well as the heinous nature of allegation against the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Sessions Trial No. 642 of 2023, arising out of Singhwara P.S. Case No. 148 of 2016.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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