

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20967 of 2024

Arising Out of PS. Case No.-65 Year-2023 Thana- EKCHARI District- Bhagalpur

NIRAJ KUMAR SON OF RAM MANDAL RESIDENT OF VILLAGE-
SIMANA CHATAIYA, PS- EKCHARI, DIST- BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Prasad

For the Opposite Party/s : Mr. Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 13-05-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State, Mr. Rabindra Kumar.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 376 of the
Indian Penal Code read with Sections 4 and 8 of the POCSO
Act.

3. Learned counsel for the petitioner submits that
petitioner has been falsely implicated in the instant case by the
informant with an allegation of committing rape.

4. The learned counsel for the petitioner submits that
falsity of the allegation would manifest from the facts which
have transpired during the course of investigation. It is next
submitted that during the course of investigation, it transpired
that the victim was married to one Mithun Kumar Bhagat on



29.06.2023 at Batteshwar temple in which the family members of both sides were present, thereafter on 23.08.2023, the victim came back to her parental home and on 23.09.2023, the petitioner came to the parental house of the victim and the victim accompanied him and thereafter they established physical relation and on 24.09.2023 the petitioner again dropped the victim back to her home. It is further submitted that it also transpired in the investigation that when Mithun Kumar Bhagat and his family member came to know about the relationship of the victim with Niraj i.e. the petitioner, they refused to take back the victim back home.

5. The learned counsel for the petitioner further submits that it is not in dispute that victim and Niraj were in relationship, but after the victim was married to Mithun Kumar Bhagat, the petitioner had no interest in the victim, but then the victim, always aspired to be with the petitioner. It is also submitted that victim had come to meet the petitioner and the said fact came to the notice of her husband, Mithun Kumar Bhagat, on account of which, he left the victim and thereafter the victim started pressurizing the petitioner to marry her. It is also submitted that though in the FIR, allegation of rape is alleged, but then from perusal of the statement of the victim



recorded under Section 164 Cr.P.C. (*Annexure-2*), it would manifest that the same does not even remotely suggest that petitioner had committed rape with the victim. The learned counsel for the petitioner further submits that the victim in her statement recorded under Section 164 Cr.P.C. did not even remotely disclosed that she was earlier married to Mithun Kumar Bhagat. It is, thus, submitted that in absence of seeking divorce from Mithun Kumar Bhagat, the victim could not have married the petitioner and the victim realizing later that allegation of rape has been falsely alleged in the FIR, as such, in her statement recorded under Section 164 Cr.P.C., she alleged that petitioner had performed marriage with her but then does not even suggest that physical relation was established. It is submitted that the informant without seeking divorce could not have married the petitioner, the marriage was *void ab initio*, the petitioner refutes the allegation of marriage.

6. Learned A.P.P. for the State after perusing the case diary also submits that during the course of investigation, this fact has transpired that victim was married to Mithun Kumar Bhagat at Batteshwar temple in presence of their family on 29.06.2023, but then opposes the anticipatory bail application and submits that victim has alleged in the FIR that she was



raped.

7. 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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Ekchari P.S. Case No. 65 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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