

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27525 of 2024

Arising Out of PS. Case No.-59 Year-2023 Thana- MAHILA P.S District- West Champaran

Ashraf Alam, Gender-Male, aged about 23 years, Son of Neyaz Alam @
Ajijullah Alam, Resident of Village- Mahesara, Police Station- Gopalpur,
District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar.
2. Roshan Khatoon (Female), aged about 19 years, D/O Sheikh Atiullah,
R/V- Kataha Raghunathpur, P.S. Mufassil, District-East Champaran.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Sarvesh Kashyap, Advocate
For the Opposite Party	:	Mr. Ashok Kumar Singh, A.P.P.

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

ORAL ORDER

5 29-07-2024 This matter has been listed under the heading ‘For
Orders (on office notes)’.

2. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

3. The petitioner seeks bail in connection with Bettiah
Mahila P.S. Case No. 59 of 2023 dated 08.10.2023 registered for
the offences punishable under Sections 341, 323, 417, 376, 307,
504 and 506 of the I.P.C.

4. As per the prosecution case, on 02.10.2023 at about
6.00 P.M., on the pretext of marriage, the petitioner took the
informant from her house and kept her in a room in the house of
his villager, namely, Sunny in Motihari. The petitioner used to



talk with her since four years on the pretext of marriage. It is further alleged that on 07.10.2023, the petitioner took the informant from Motihari to Bettiah and committed rape on her in a *Guest House* near the *Bettiah Bus Stand*. Thereafter, a scuffle took place between them for repairing of mobile and due to that reason he assaulted and started strangulating her with *Dupatta* and thereafter he fled away from there.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the occurrence took place from 02.10.2023 to 07.10.2023 but the F.I.R. has been lodged on 08.10.2023 and the delay in lodging of the F.I.R. has not been explained by the prosecution. Both parties are residents of the same village and they are knowing to each other since long time. There is no injury report on the record. Hence, no offence under Section 307 of the I.P.C. is made out in the present case. The informant has been medically examined by the doctor and the doctor has not found any recent sign of sexual assault which falsifies the allegation of committing rape on her against the petitioner. The petitioner has also been examined by the doctor and the doctor has found that there is no recent sign of any intercourse and the same also falsifies the allegation levelled



against him. It is further submitted that both parties are good friends and the informant's father wants to marry her daughter with the petitioner but the petitioner's father was not agree for the same, hence, the petitioner has falsely been implicated in the present case. 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 of their own will. Learned counsel for the petitioner placed reliance on the judgment 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 21.10.2023.

6. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

7. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond



of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Bettiah, West Champaran in connection with Bettiah Mahila P.S. Case No. 59 of 2023.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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