

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35192 of 2024

Arising Out of PS. Case No.-13 Year-2024 Thana- BAJPATTI District- Sitamarhi

Md. Istekhar @ Iftekhar @ Ikhetar Son of Md. Jahangir Resident of Village -
Bishanpur Ratwara, Police Station - Bajpatti, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Das, Advocate.

For the Opposite Party/s : Mr.Syed Mojibur Rahman, APP.

For the Informant : Mr. Vijay Anand, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

4 25-10-2024 Heard Mr. Pankaj Kumar Das, learned counsel
appearing on behalf of the petitioner; Mr. Syed Mojibur
Rahman, learned APP for the State and Mr. Vijay Anand,
learned counsel for the informant.

2. The petitioner seeks pre-arrest bail in connection
with Bajpatti P.S. Case No. 13 of 2024 registered for the offence
punishable under Section 376/34 of the Indian Penal Code.

3. As per the allegation made in the F.I.R., the victim
who is the informant has alleged that the petitioner is her
neighbour and she had visited his house on 16.12.2023. She was
given sweets containing intoxicant material and she became
unconscious and after two days she found herself locked in a



room at Jaipur where the petitioner allegedly established physical relationship with her for 20 days and on 02.01.2024 when she found the room to be not locked, she raised alarm and returned home. On 10.01.2024, she lodged the F.I.R. in respect of the said incidence.

4. Learned counsel appearing on behalf of the petitioner submitted that the victim on her own had accompanied the petitioner to Delhi being in love relationship with the petitioner and solemnized marriage. He further submitted that the story as narrated in the F.I.R. cannot stand taking into consideration, even though she was missing for around 22-24 days. No information was given to the police by any of the family members either by the father or mother of the victim. Learned counsel further submitted that due to some difference of opinion with the petitioner, she ran away from Jaipur. Thereafter, the F.I.R. was lodged by the victim herself on 10.01.2024 after much delay. Learned counsel further submitted that there are proof to show that the victim willingly married with the petitioner in Masjid at Delhi in which family members of both the sides had participated. In Paragraph No.8 of the bail petition, the petitioner has specifically stated that the informant is the legally wedded wife of the petitioner.



5. Mr. Vijay Anand, learned counsel tendered his appearance on behalf of the informant (victim) and informed that the victim herself is present in the Court. The victim stated before this Court that she is aged about 17 years and the same has further been clarified by Mr. Vijay Anand, learned counsel who in turn stated that the date of birth of the victim as per the Aadhar Card is 04.03.2007 and to that effect specific statement has been made in Para-9 of the counter affidavit that her date of birth is 04.03.2007. Learned counsel, however, has opposed the prayer for bail of the petitioner on the ground that the petitioner has committed wrong in a planned manner, as such, the petitioner don't deserve to be released on bail.

6. Learned APP for the State has supported the argument advanced on behalf of the informant.

7. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the victim has lodged F.I.R. on 10.01.2024 nearly after 22 days of the incidence which has allegedly taken place on 16.12.2023, the age of the victim has been assessed by the Medical Board to be 22 years, none of the family members of the victim has informed the police or anyone had tried to take effort to search out the victim, it appears that she herself accompanied the



petitioner and in view of the specific statement made in Para-8 of the bail petition that the informant is the legally wedded wife of the petitioner and the victim and the petitioner have solemnized their Nikah at Masjid on 01.07.2023 and thereafter they started residing at Jaipur and due to trivial dispute, the informant came back to her home and thereafter she lodged the F.I.R. after much delay, *prima facie* it appears that the victim on her own had accompanied the petitioner and as per the opinion of the doctor also, no case of forceful sexual assault is established.

8. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned ADJ-VI, POCSO, Sitamarhi in connection with Bajpatti P.S. Case No. 13 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. The District Court is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically lose its force.



10. The bail application stands disposed of.

(Purnendu Singh, J)

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