

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34472 of 2024

Arising Out of PS. Case No.-209 Year-2023 Thana- AMDABAD District- Katihar

Kishor Mandal @ Kishor Kumar Mandal @ Kishor Kumar Son Of Late Gena
Lal Mandal Village-Jiyamari,P.S.- Amadabad, Dist- Katihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Raghvendra Kumar Singh, Adv
For the Opposite Party : Mr. Rajendra Singh Shastri, APP

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

ORAL ORDER

2 20-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Amdabad P.S Case No. 209/2023 dated 09.08.2023 registered for the offence punishable u/s 363, 341, 342, 323, 376 and 504 read with Section 34 of the Indian Penal Code.

3. As per the prosecution case, the petitioner is alleged to have committed rape on the informant forcibly. On being objected, the petitioner promised to marry her. Further, co-accused person abused and assaulted the informant and drove her out from their house.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. Learned counsel has submitted that the victim is a major lady who knows the consequence of the act of the petitioner. It is further submitted that the informant has stated that she has solemnized marriage with another person at Jharkhand. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner. It is further submitted that the petitioner committed rape on the informant. Thereafter, the petitioner made false promise of marriage with a view to save his skin from the alleged offence. 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
and the heinous nature of allegation against the petitioner, I am
of the view that no case for grant of anticipatory bail is made
out. The petition is rejected and the petitioner is directed to
surrender to the Court below within six weeks from the date of
this order and the Court below may consider the prayer of the
bail of the petitioner in accordance with law and on its own
merits without being prejudice by this order.

(Chandra Prakash Singh, J)

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