

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33630 of 2024

Arising Out of PS. Case No.-17 Year-2023 Thana- MINAPUR District- Muzaffarpur

Sunil Sahani @ Sunil Kumar, aged about 26 years (Male), Son of Shiv Shankar Sahani, Resident of village - Methnapur @ Methunapur, P.S.- Minapur, District - Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Shanti Bhushan Singh, Advocate

For the Opposite Party : Mr. Md. Anzarul Haque Sahara, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-05-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Minapur P.S. Case No. 17 of 2023 dated 16.01.2023 registered for the offences punishable under Sections 420 and 376/34 of the I.P.C.

3. As per the prosecution case, on 18.12.2021, the petitioner abducted the informant on the pretext of marriage and established physical relationship with her and he also took her entire ornaments for which her father had lodged Minapur P.S. Case No. 09 of 2022 against the petitioner and other co-accused persons. When the petitioner came to know about the aforesaid case lodged against him, he by taking her in believe that he



would get marry her and would keep her as wife and due to which, he got her statement recorded under Section 164 Cr.P.C. in the court and thereafter he left her. The informant started living with her elder sister after the death of her mother and further the petitioner again started establishing physical relationship with her. When the informant came to know that the petitioner is already married and he has children and he also played with her prestige, she went to the petitioner's door on 31.01.2022, where all accused persons abused her and threatened that the petitioner would not keep her.

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 the occurrence took place from 18.12.2021 to 31.01.2022 but the complaint which came to be registered as F.I.R. under Section 156(3) of the Cr.P.C. has been lodged on 16.01.2023 after a much delay of one year for which no explanation has been given by the prosecution and it creates doubt about the prosecution case. There was love affair with the parties and both are major. The medical examination of the informant has not been done. It is further submitted that from perusal of the statement of the informant recorded under Section 164 of the Cr.P.C., it appears that the informant in her statement



has stated that the informant and the petitioner got married of their own will, hence, no case is made out under Section 376 of the I.P.C. against the petitioner. As far as Section 420 of the I.P.C. is concerned, there is ornamental in nature. 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 one criminal antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 02.04.2023.

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

6. 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 Exclusive Special Judge, POCSO-3, Muzaffarpur in connection with Minapur P.S. Case No. 17 of 2023 with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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