

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35475 of 2023

Arising Out of PS. Case No.-871 Year-2022 Thana- BIHAR District- Nalanda

Satish Kumar S/O Sunil Kumar Yadav @ Sunil Yadav R/O Mohalla- Sohsarai
(Katahal Tola), P.S- Sohsarai, Distt.- Nalanda, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Prince Kumar Mishra, Advocate
For the Opposite Party/s :	Mr.Anil Kumar Singh No. 1, APP
	Mr.Deepak Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 27-02-2024 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State along with learned

counsel for the informant.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 494, 376,
506 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that
petitioner has been falsely implicated in the instant case. It is
next submitted that petitioner is not the husband of informant. It
is further submitted that during the course of investigation it has
come that informant was married to one Shambhu Kumar in the
year 2017 and the child was born in the year, 2019 while her
marriage was subsisting with Shambhu Kumar. It is further
submitted that informant had instituted the instant FIR alleging



therein that she was married to the petitioner in the year, 2015 and they performed marriage in a temple but her parents were against the marriage of the informant with the petitioner as such they got her married to Shambhu Kumar. Learned counsel for the petitioner next submits that what is not disputed rather stands admitted is that during the course of investigation it has come that the family members of informant have stated before the police that informant was married to Shambhu Kumar and they denied the marriage of informant with the petitioner. It is also submitted no doubt when the case was pending in the trial court an application was filed on behalf of informant for getting the DNA of the child tested and the court accordingly ordered for DNA test and the same was not objected by the petitioner and in the DNA test it has come that petitioner is the biological father of the child, but then in the same breath the learned counsel submits that it has also come during the course of investigation that informant was married to Shambhu Kumar in the year 2017 and the child was born in the year 2019, when her marriage with Shambhu was subsisting and he had access to the informant, as such, the report of the DNA test will have to stand the scrutiny of the trial in terms of Section 112 of the Evidence Act. Learned counsel at the cost of repetition submits that no



doubt for the present the DNA report records that petitioner is the biological father, but then he disputes the said report.

4. Learned Additional Public Prosecutor for the State along with learned counsel for the informant rebuts the submissions of the learned counsel for the petitioner and submits that the statement of the victim was recorded under Section 164 Cr.P.C wherein she has stated that she married the petitioner in the year 2015 and the child is of the petitioner. It is also submitted that when the first marriage of the informant with the petitioner was subsisting how could the parents have performed the marriage of the informant with Shambhu without seeking divorce from the petitioner. Learned counsel for the petitioner at this stage submits that though he disputes that he was married to the informant and is the father of the child thus will challenge the DNA report in an appropriate proceeding, but for the present to establish his *bona fide* the petitioner will pay a monthly maintenance of Rs. 3,500/- to the informant. It is also submitted that police after investigation has submitted chargesheet and has not found the case true under Section 376 of the IPC. It is next submitted that the payment of maintenance by no stretch of imagination be construed that petitioner is paying the maintenance being the husband of the informant or



father of the child. Learned counsel for the informant for the present does not oppose the anticipatory bail application of the petitioner.

5. 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. 5,000/- (Rupees Five 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 Bihar PS Case No. 871 of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

6. However, the informant shall be at liberty to file an application seeking cancellation of the anticipatory bail granted to the petitioner in the event if the petitioner for two consecutive months does not pay the maintenance amount as agreed.

7. The petitioner at this stage submits that the maintenance will commence from 11.03.2024.

(Satyavrat Verma, J)

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