

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44270 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- MAHILA PS District- Gaya

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Jai Prakash @ Jai Prakash Kumar S/O Bhavan Yadav R/O Village -Korma
Pahar Chiraiyatad, P.S. Chaudati, Dist. Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sushma Kumari D/o Umesh Yadav Resident of Village- Korma Pahad,
Chiraiyatand Police Station- Chandauti, District- Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Syed Asgher Najmi

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 27-08-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 376, 493,
341, 323, 504, 506 and 34 of the Indian Penal Code and
Sections 4 and 6 of POCSO Act.

3. Learned APP, Shri Chandra Bhushan Prasad,
submits that in compliance of the order dated 13-8-2024, the
Investigating Officer of the case is present in the Court.

4. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and has been falsely
implicated in the instant case by the informant. It is next



submitted that the informant alleges that she is aged about 17 years and since 2022, she was on friendly relation with the petitioner and on account of the friendship, the petitioner used to visit her house and established physical relation on pretext of marriage on several occasions at her house. It is next alleged that the petitioner had given her a mobile having mobile No. 8340546989 and she used to talk to the petitioner from the said mobile, further on 19-1-2024 at 9:00 am he took her to Howrah where he raped her in a hotel and fled and thereafter switched his mobile off. It is next alleged that some how the informant came back from Howrah to Gaya and disclosed the said fact to her parents and brother, thereafter parents and brother went to house of the petitioner and informed his family members that petitioner established physical relation on pretext of marriage when the parents of the petitioner abused and assaulted her parents and ousted them from the house.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is next submitted that though the informant in the FIR alleges that she is 17 years of age but then the Doctors have assessed her age in between 18-19 years. It is also submitted that the relationship was completely consensual.



6. Learned Counsel for the petitioner vehemently rebuts the allegation that the petitioner ever took the informant to Howrah. It is also submitted that had the informant been taken to Howrah where she alleges that she was raped in a hotel then definitely she would have disclosed the name of the hotel where the petitioner had kept her but then the name of the hotel is not disclosed which casts an aspersion on the case of the prosecution. It is also submitted that whenever a consensual relationship sours, false criminal case is instituted alleging rape. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that petitioner used to come to her house for establishing physical relation but then it does not appear probable that petitioner in presence of the family members of the informant would have established physical relation, it is next submitted that if the petitioner was coming to the house of the informant that amply demonstrates that it was the informant who was calling him making him aware that no one is present in her house. It is also submitted that petitioner will not abscond rather will cooperate in the investigation for proving his innocence.

7. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.



8. 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. 10,000/- (Rupees Ten 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 Mahila P.S. Case No. 6 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

9. However, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this court, is not cooperating in the investigation, in that event, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner.

10. The personal appearance of the Investigating Officer of the case is dispensed with.

(Satyavrat Verma, J)

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