

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39973 of 2024

Arising Out of PS. Case No.-107 Year-2023 Thana- MAHILA PS District- Darbhanga

MD. ALAM SHAIKH @ MD. ALAM SON OF LATE ALAMGIR @ LATE
MD. ALAMGIR SHAIKH VILLAGE- BHIROHA, PS- JALLEY, DIST-
DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Saurav Anand, Advocate
For the Opposite Party/s :	Mr.Arvind Kumar Pandey, APP
	Mr. Nilendu Kumar Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 31-08-2024 1. Heard learned counsel for the petitioner as well as learned APP for the State.
2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 376, 354(C), 504, 506, 34 of the IPC in connection with Mahila P.S. Case No.107 of 2023.
3. The 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.
4. The learned counsel submits that from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that she was residing at Kolkatta and on 21.05.2023 came to her village along with her father, as her father was getting a house constructed, it is further alleged that



petitioner who is her neighbour and relative started coming to her house, further the petitioner used to convey that he loves her and intended to establish physical relation on the pretext that he will marry her, but the informant always desisted, it is next alleged that on 30.07.2023 in the night when she was going towards the house which was under construction when petitioner all of a sudden came and caught him and took her in the lane where the aunt of the informant resides and when she tried to raise an alarm he gagged her mouth and disrobed her and thereafter established physical relation and captured the occurrence in the mobile, and thereafter threatened that if she will disclose the occurrence to anyone in that event the video would be made viral.

5. It is further alleged that petitioner thereafter started establishing physical relation forcefully and whenever she objected he used to convince her that he will marry, further mother of the petitioner came and demanded five lakhs rupees along with a motorcycle for getting the petitioner married to the informant, on which the informant said that why petitioner established physical relation forcefully when he intended to marry after taking dowry on which the informant was abused.

6. The learned counsel for the petitioner submits that



from bare perusal of the allegation as alleged in the FIR it would manifest that the same is cryptic and does not inspire confidence. It is next submitted that it absolutely does not stand to reason that the petitioner would have videographed the occurrence of establishing physical relation in a lane as alleged in the FIR. It is further submitted that the relationship was purely consensual, but since there was no promise of marriage from side of the petitioner as such a false case of rape came to be instituted.

7. It is next submitted that from perusal of the allegation it appears that the informant herself is confused whether she was raped or the petitioner established physical relations on pretext of marriage. It is next submitted that had the petitioner raped the informant as alleged in the lane on the night when he forcefully brought her near her aunt's place in that event, the informant would have instituted a case instantly but then the same was not done. It is next submitted that since both petitioner and the informant were in a consensual relationship as such no FIR came to be instituted by the informant earlier. It is also submitted that in order to give seriousness to the case, it is alleged that mother of the informant demanded dowry for marrying the petitioner with her. It is further submitted that it



absolutely does not stand to reason that as to why the mother of the petitioner would have demanded dowry from the family of the informant when from the FIR, it cannot be culled out that petitioner or the informant ever informed her about their relationship and if the act of the informant was forceful then where was the occasion for the mother of the petitioner to seek dowry for the purposes of marriage. The learned counsel for the petitioner next submits that it is very easy to allege rape but then it is difficult to prove but a person against whom allegation of rape is alleged he has to live his entire life with that stigma even in the event of acquittal subsequently.

8. The learned counsel appearing on behalf of the informant opposes the anticipatory bail application, but then is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner that no FIR came to be instituted when it is alleged that the petitioner forcefully established physical relations in the night nor the learned counsel is in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner that it is not possible to videograph an occurrence in a lane if rape was being committed.

9. 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 Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge, Ist, Darbhanga in connection with Mahila P.S. Case No.107 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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