

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40828 of 2024

Arising Out of PS. Case No.-150 Year-2024 Thana- GANDHIMAIDAN District- Patna

Akash Kumar, son of Devendra Paswan, Resident of Village - Kalyanpur,
Post - Lakshmipur, Police Station - Barahiya, District - Lakhisarai. Presently
Posted As Constable In Patna G.R.P., Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Manish Kumar, Advocate Mr.Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s :		Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 10-06-2024 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with Gandhi

Maidan P.S. Case No. 150 of 2024 registered for the

offences under Sections 420, 379 and 376 of the Indian

Penal Code.

3. The petitioner is named in the First Information

Report and is in custody since 13.03.2024.

4. Allegation against the petitioner is to develop

friendly relationship with the informant through social media

and thereafter calling her to Patna, solemnized marriage and

established physical relationship with her and on the very



next day, petitioner, who is working with GRP, Patna, abandoned her.

5. It is submitted by learned counsel appearing on behalf of the petitioner that face of F.I.R. is nowhere suggests allegation of rape, as alleged. It is pointed out that informant is undisputedly major and she solemnized marriage with the petitioner out of her own sweet-will. It is submitted that even the F.I.R. is not suggesting that physical relation was established against her will as to attract the prime legal ingredients for the offence of rape. It is submitted that as petitioner refused to marry the informant, the present false case was lodged. It is submitted by learned counsel that there is nothing on record which may suggest that petitioner was under intention to cheat the informant from very inception as to attract the offence of rape on false pretext of marriage. Learned counsel, in support of his submission, referred the legal report of Hon'ble Supreme Court in the matter of **Ansaar Mohammad Vs. State of Rajasthan and Another** reported in **2022 SCC Online SC 886** where it has been categorically held by Hon'ble Apex



Court that entry into any kind of corporeal relation with a person on the pretext of getting marriage cannot be termed as rape. Learned counsel also in the background of factual allegation referred the report of Hon'ble Supreme Court as reported in the matter of **Pramod Suryabhan Pawar Vs. State of Maharashtra and Another** reported in **(2019) 9 SCC 608**. It is further submitted by learned counsel that investigation of this case is completed, charge-sheet has already been submitted and as such, there is no chance of tampering with the evidence. It is also submitted that informant further lodged a criminal case against petitioner, subsequent to this case regarding cheating. While concluding argument, learned counsel submitted that informant entered into compromise with petitioner but denied subsequently and thereafter lodged criminal cases against conducting lawyers also, dealing with case before learned trial court.

6. Learned A.P.P. while opposing the prayer of bail of the petitioner, submitted that allegation as to commit rape is very specific against this petitioner, but fairly conceded that same is in the background of solemnization of marriage.



7. In view of the aforesaid facts and circumstances as the allegation of rape *prima-facie* appears to be raised by the informant, as marriage could not solemnized with the petitioner, coupled with the fact that investigation of this case is completed and charge-sheet has already been filed, where petitioner is in custody since 13.02.2024, accordingly, above-named petitioner is directed to be released on bail in connection with Gandhi Maidan P.S. Case No. 150 of 2024 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Patna, subject to the condition as laid down under Section 437 (3) Cr.P.C. and further condition that:

(i) Petitioner shall not contact in any manner with the informant during pendency of the trial or to influence any of the prosecution witnesses in whatsoever manner, failing which the informant/State shall be at liberty to file an application before the learned trial court itself for cancellation of bail of the petitioner.



(ii) Petitioner shall remain present before learned trial court on each and every date after framing of charge, where exemption will only be allowed on the ground of ill-health duly supported by medical prescription/relevant documents.

(Chandra Shekhar Jha, J.)

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