

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42572 of 2024

Arising Out of PS. Case No.-113 Year-2023 Thana- AMDABAD District- Katihar

Sk. Ishtekhar Son of Sk. Murshid R/O Vill.- Amdabad, P.S.- Amdabad, Dist.-
Katihar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Rajendra Prasad Sah, Advocate
For the Opposite Party/s :	Mr. Choubey Jawahar, APP
For the Informant :	Mr. Sanjeev Kumar Singh, Advocate
	Ms. Neha Rani, Advocate

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 24-10-2024 Heard Mr. Rajendra Prasad Sah, learned counsel
for the petitioner, Mr. Choubey Jawahar, learned APP for the
State, Mr. Sanjeev Kumar Singh, learned counsel for the
informant and perused the case diary.

2. The petitioner seeks bail in Amdabad P.S. Case No.
113 of 2023, instituted for the offences punishable under
Sections 376 and 120(B) of the Indian Penal Code.

3. The prosecution case, in short, is that, the petitioner
committed rape upon the informant on the point of knife and on
raising alarm by her, the petitioner gave false pretext of
marriage to the informant and again established physical
relationship with her and when she started pressurized him to
marry her, the petitioner fled away to Delhi.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. Learned counsel for the petitioner also submits that the occurrence has taken place on 11.06.2022 and the FIR has been instituted on 03.05.2023. There is inordinate delay of 11 months in lodging the FIR. It is apparent that the entire prosecution case has been lodged to pressurize the petitioner to marry her. It is further submitted that the petitioner and informant are co-villagers. The promise of marriage was made by the father of the petitioner in Panchayati and not by the petitioner himself, thereafter the informant freely participated in establishing physical relationship with the petitioner but the petitioner is not ready for marriage with the informant. Learned counsel for the petitioner submits that the said relationship was a consensual relationship between the parties. He has further placed reliance on cases of the Hon'ble Supreme Court since reported in **2018 SCC Online SC-3100 (Dr. Dhruvaram Murlidhar Sonar versus The State of Maharastra & Ors)** and **(2019) 9 SCC 608 (Pramod Suryabhan Pawar vs. The State of Maharashtra and Ors.)**. The petitioner is in custody since 30.11.2023 and bears no criminal antecedent.



5. Learned APP for the State and learned counsel for the informant have vehemently opposed the prayer for grant of bail to the petitioner. Learned APP for the State further submitted that the petitioner has supported the prosecution story in her statement recorded under Section 164 Cr.P.C.

6. Considering the aforesaid facts and circumstances of the case, delay in lodging the FIR and taking into account the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Amdabad P.S. Case No. 113 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

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