

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44093 of 2023

Arising Out of PS. Case No.-65 Year-2023 Thana- PARIHAR District- Sitamarhi

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Amar Kumar, aged about 32 years, Gender-Male, S/O Ram Pratap Ray, R/O Village- Rambhelahi, P.S- Parihar, Distt.- Sitamarhi.

... .. Petitioner

Versus

The state of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. D.K. Sinha, Senior Advocate, Mr. Pramod Kumar Sinha and Ms. Akanksh Malviya, Advocates
For the Informant	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Jagdhar Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

10 10-05-2024 This matter has been listed before this Court as per minutes dated 27.02.2024 of Hon'ble the Chief Justice.

2. Heard learned counsel for the petitioner, learned counsel for the informant and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Parihar P.S. Case No. 65 of 2023 dated 09.03.2023 registered for the offences punishable under Sections 376, 420 of the I.P.C. and Sections 3/4 of the D.P. Act.

4. It is also relevant to mention here that vide order dated 20.02.2024, after hearing learned counsel for the petitioner, learned counsel for the informant and learned A.P.P.



for the State, a detailed reasoned order has been passed by the Co-ordinate Bench of this Court granting anticipatory bail to the petitioner but later on, this case was directed to be listed before an appropriate Bench after seeking permission from the Hon'ble Chief Justice on account of raising hue and cry inside the Court room by the informant and a draft copy of the anticipatory bail order is kept in the file without signature. Thereafter, as per the minutes dated 27.02.2024, this matter has been listed before this Court.

5. As per the prosecution case, in brief, is that when the informant was in Harayana College, the petitioner forcibly abducted and took her to Pune on 30.12.2022 and kept her there by 03.02.2023 and established physical relationship with her on the pretext of marriage. It is further alleged that the petitioner demanded Rs. 4,34,000/- as dowry. When she disclosed the same to her parents, thereafter, they immediately gave the said amount of dowry as demanded by the petitioner. It is further alleged that her exams were to commence from 10.02.2023, hence, the petitioner left her in Harayana College on 06.02.2023 and said that in 'Holi', they would go to the village and perform their marriage. It is further alleged that she came to know that the marriage of the petitioner has been fixed to another place



with another girl, on which, she protested, when the petitioner refused to marry her saying that his parents have fixed his marriage.

6. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case due to dirty village politics. Learned counsel for the petitioner has further submitted that much earlier, a talk with regard to the marriage between the parties had taken place but due to some reasons, the marriage between them could not take place and due to that reason, the present false case has been filed by the informant against the petitioner to put pressure on him for settlement of her marriage. It is further submitted by learned counsel for the petitioner that from perusal of the F.I.R., it appears that the petitioner abducted the informant from her Girls' Hostel, Harayana and took her to Pune and kept her from 30.12.2022 to 03.02.2023 but most surprisingly, during that period, the informant has not raised any alarm while she was being forcibly taken to Pune from Harayana by the petitioner which covered the distance of 1474 K.M. It is further submitted that neither the Ward Superintendent of Girls' Hostel, the informant herself nor the guardian of the informant had lodged any complaint/F.I.R. against the petitioner to the concerning



authority/police station. In fact, the informant never went to Pune with the petitioner. No single independent witness has been examined on behalf of the informant. The informant is aged about 27 years old and a Medical Board was constituted under the Chairmanship of the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi, and the informant was medically examined by the said Medical Board and the Medical Board neither found any external or internal injury on the body of the informant nor any sign of rape on the informant. It is further submitted by learned counsel for the petitioner that in the fardbeyan, the informant has stated that the petitioner forcibly abducted the informant from Harayana College and took her to Pune and kept her from 30.12.2022 to 03.02.2023 on the pretext of marriage but she in her statement recorded under Section 164 of the Cr.P.C., mentioned in para 25 of the case diary, has not stated about her forceful abduction by the petitioner and a different version has been stated by saying that the marriage of the informant with the petitioner has been fixed by the father of the informant one year ago and her parents and she went to Delhi and paid Rs. 4,34,000/- to the petitioner for solemnization of the marriage between them and the petitioner told the informant that he would marry her in the year 2023 after 'Holi'



festival. Hence, there are contradictions between the fardbeyan and the statement recorded under Section 164 of the Cr.P.C. Learned counsel for the petitioner placed reliance on the judgment in the case of *Mandar Deepak Pawar Vs. State of Maharashtra & Anr. (Criminal Appeal No. 442 of 2022)* in which “a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled”. It is submitted that the petitioner and his family members never assaulted the informant or her parents and a false case has been filed with a view to harass. No case under Section 376 of the I.P.C. is made out against the petitioner. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

7. Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the informant by way of filing the counter affidavit has further submitted that the petitioner forcibly took the informant from the Harayana College to Pune and kept her from 30.12.2022 to 03.02.2023 and established physical relationship with her on the false pretext of marriage. Later on, Rs. 4,34,000/- was



demanded by the petitioner as dowry and the said money was paid by the parents of the informant. Subsequently, the petitioner refused to marry the informant and settled his marriage to another place with another girl. Learned counsel for the informant placed reliance on the judgment in the case of ***Nikhil Parasar Vs. The State Govt. NCT Of Delhi***, passed in ***Bail Appln. No. 1745 of 2009*** under order dated 01.02.2010. It is further submitted by learned counsel for the informant that after lodging F.I.R., Purushottam Kumar, the brother of the petitioner alongwith 10-12 people came to the informant's house and assaulted her father and snatched Rs. 45,000/- and a mobile phone worth Rs. 20,000/- but anyhow, he saved his life. He had already killed his younger brother for want of property and now the petitioner wants to kill the informant with a view to grab her landed property and house. It is further submitted that when the informant alongwith her mother was coming to Patna for appearing in the examination and then to Rohtak, Harayana, the petitioner and his family members stopped and assaulted them and snatched the money and golden chain weighting 10 to 15 grams, as a result of the which, they sustained injuries. They were treated by the doctor and after coming to Parihar, lodged an F.I.R. against them. Learned A.P.P. for the State has



submitted that both the parties chose to have physical relationship with their own consent without marriage.

8. Considering the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the petitioner, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Parihar P.S. Case No. 65 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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