

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47129 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- MAHILA PS District- Buxar

Dharamvir Gond @ Dharamveer Kumar Gond, Son Of Sadanand Gond @
Shardanand Gond, Village- Basantpur, P.S.- Ara (Mufassil), Dist.- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kanti Kumari, D/O- Shivji Gond, R/O- Village- Dalsagar, P.S.- Buxar (Ind.),
Distt.- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Shyam Kumar Singh, Advocate
For the Informant	:	Mr. Avinash, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-09-2024 Heard Mr. Sanjay Kumar, learned Advocate appearing on behalf of the petitioner and Mr. Shyam Kumar Singh, learned Additional Public Prosecutor for the State. The opposite party no. 2 appears through her counsel Mr. Avinash, learned Advocate.

2. The application for grant of bail to the petitioner who is in judicial custody in connection with Mahila P.S. Case No. 07 of 2024 registered for the offence punishable under Sections 376 and 379 of the Indian Penal Code. The police after investigation filed charge sheet under section 376 of Indian Penal Code and Sections 4 and 6 of POCSO Act.

3. Based upon the written report the prosecution



alleges that in the year 2019 the petitioner has established physical relationship with her and when she made a protest, the petitioner and other family members assured the victim as well as her family members that they will solemnize the marriage of the victim with the petitioner. It is further alleged that on the pretext of marriage she was subjected to physical relationship but later on, the petitioner refused to solemnize the marriage.

4. Learned Advocate appearing on behalf of the petitioner referring to the FIR contended that the occurrence took place in the year 2019 and thereafter, the relationship continued for over a period of five years and this FIR has been instituted when the petitioner refused to solemnize marriage. It is next contended that even the entire FIR as well as the statement of the victim recorded under Section 164 Code of Criminal Procedure do not reveal that the relationship was established on pretext of marriage and, as such, any case much less under Section 376 is made out. It is also the contention of the petitioner that both the parties are close relatives and only because of the fact that the petitioner and his family refused to solemnize marriage, the present FIR has been instituted, with a view to put pressure. Even if the allegation taken to be true it appears to be a consensual relationship. The



petitioner bears fair antecedent.

5. On the other hand, learned Additional Public Prosecutor for the State as well as Advocate appearing on behalf of the informant vehemently opposes the bail application and submits that the date on which the first relationship was established, the petitioner was a minor. Moreover, the petitioner has sexually exploited the victim girl and she supported the prosecution case in her statement recorded under Section 164 of the Code of Criminal Procedure.

6. Regard being had to the submissions made on behalf of the parties and taking note of the delay in lodging of the FIR as well as the facts that there is no allegation as to whether the relationship was established on pretext of marriage coupled with the fair antecedent and the fact that investigation of the crime is complete and the charge-sheet has been submitted, let the petitioner, named above be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge VI cum Spl. Court, POCSO Act, Buxar in connection with Mahila P.S. Case No. 07 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as



follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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