

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51807 of 2024

Arising Out of PS. Case No.-243 Year-2023 Thana- MADHEPUR District- Madhubani

Sunil Mukhiya, aged about 24 years, Gender-Male, Son of Ram Charitra Mukhiya @ Ram Charitra, R/O- Pachahi, Ward No 14, P.S.-Madhepur, Distt.- Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ranjit Kumar Singh, Advocate
For the Opposite Party : Mr. Dr. Ajeet Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 29-08-2024 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Madhepur P.S. Case No. 243 of 2023 dated 02.10.2023 registered for the offences punishable under Sections 376, 313 and 120B of the I.P.C.

3. As per the prosecution case, the petitioner trapped the minor daughter of the informant in his love and established physical relationship with her. When the victim became pregnant then the petitioner said that he would marry her. On 06.06.2023, the petitioner came under pressure from his parents and got married at another place. Thereafter, the petitioner and the other co-accused persons got the victim's seven months



pregnancy aborted at *Ramchandra Hospital* and kept the victim at their home.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that there was love affair between the parties. It is further submitted that the victim was brought by S.I. Trivani Prasad Singh, for her medical examination in *Sadar Hospital, Madhubani* on 03.10.2023, but the victim denied to be medically examined and she has further stated that no such type of occurrence took place with her, annexed as Annexure-P/2 to the present bail application and truth surfaced before the Medical Board which was properly recorded and thereafter the statement of the victim was recorded under Section 164 of the Cr.P.C. on 05.10.2023 in the tortured form in which she has stated that she loves the petitioner for two years and on the pretext of marriage, he established physical relationship with her but later on, he refused to marry her. When she asked the petitioner about her pregnancy, he told her to get her pregnancy aborted. Thereafter on 29.09.2023, the petitioner got the victim's six months pregnancy aborted. She again told him to marry her but he does not want to marry with her and he performed marriage with another girl and shifting from her



statement made before the Medical Board on 03.10.2023 which prima facie creates serious doubt in respect of the accusation against the petitioner. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 03.10.2023.

5. Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the bail petition of the petitioner. Learned counsel for the informant has further submitted that the petitioner established physical relationship with the minor daughter of the informant on the pretext of marriage due to which he became pregnant and the petitioner with the help of the other co-accused persons got the victim's seven months pregnancy aborted in hospital. He has relied upon the judgment in the case of *Karthi @ Karthick Vs. State Represented by Inspector of Police, Tamil Nadu*, reported in *(2013) 12 S.C.C. 710*, passed in *Cr. Appeal No. 601 of 2008*, decided on July 1, 2013 in which the Hon'ble Apex Court has held:- Sections 376 and 417 of the I.P.C.-Rape and Cheating-Obtaining consent for having sex by exercising deceit i.e., false promise of marriage-Cannot be legitimate defence to exculpate accused-Promise by accused to marry prosecutrix after committing rape- Thereafter, accused repeatedly engaged in



consensual sexual intercourse with prosecutrix, at different places, on false promise of marriage-Eventual refusal by accused to marry-Prosecutrix divulging incident to her family-Credible testimony of prosecutrix and other witnesses-Conviction for rape and cheating, confirmed.” It is further submitted that the statement recorded under Section 164 Cr.P.C. of the victim also supported the allegation as made in the F.I.R.

6. Considering the aforesaid facts and circumstances of the case as well as the heinous nature of allegation against the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with G.R. No. 27 of 2024, arising out of Madhepur P.S. Case No. 243 of 2023, pending in the court of learned Additional Sessions Judge-VII-cum-Special Judge (Pocso Court), Madhubani or concerned/successor court.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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