

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53419 of 2024

Arising Out of PS. Case No.-247 Year-2023 Thana- BAIRIYA District- West Champaran

Ajay Chaudhary @ Ajay Kumar Chaudhary, Son of Mahanth Chaudhary, R/o
Vill.- Bagahi Lamoiya Tola, P.S.- Bairiya, Dist.- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saroj Kumari D/o Shri Motilal Chaudhary, R/o Vill.- Bagahi Lamoiya Tola,
P.S.- Bairiya, Dist.- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bashishth Narayan Mishra, Adv.

For the Opposite Party/s : Mr. Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 17-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. Despite the valid service of notice upon O.P No.2,
there is no appearance on her behalf.

3. The petitioner apprehends his arrest in connection
with Bairiya P.S. Case No. 247 of 2023 registered for the
offences punishable under Sections 341, 323, 376, 504 and
506/34 of the Indian Penal Code and Section 8 of the POCSO
Act.

4. Based upon the written report, the informant alleges
that on the pretext of marriage, the petitioner established
physical relationship, however, when she asked him to



solemnize marriage, the petitioner refused. The matter was brought to the Panchayat where the petitioner and his family members assured for solemnization of marriage but they procrastinated and finally refused to solemnize marriage. It is also alleged that during the interregnum period when the parents of the informant solemnized the marriage of the informant with another boy, this petitioner made some obscene photographs viral due to which the marriage of the informant could not be performed.

5. Learned counsel for the petitioner referring to the FIR, primarily contended that admittedly the petitioner and the informant were in relationship for the last two years and the FIR has been instituted when the marriage could not be performed. It is further contended that the victim was examined by the doctor, wherein her age has been assessed in between 17 to 19 years, apart from no recent sign of sexual assault. Learned counsel for the petitioner further contented that it was a consensual relationship between the parties. So far the allegation of making obscene photographs and the video viral, there is no material in support of the aforesaid allegation.

6. On the other hand, learned counsel for the State opposed the bail application and drawing the attention of this



Court to the impugned order, submitted that the victim in her statement recorded under Sections 161 and 164 CrPC, supported the prosecution case of forceful physical relationship at the hands of the petitioner.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that, *prima facie*, it appears that both the parties were in consensual relationship and the FIR has been instituted only when the marriage could not be performed, coupled with the report of the Medical Board, which suggests that the informant as a major one and the fair antecedent of the petitioner, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VII-cum-Special Judge (POCSO), Bettiah, West Champaran in connection with Bairiya P.S. Case No. 247 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that:

(i) One of the bailors shall be the own/close family members of the petitioner.

(ii) The petitioner shall not indulge in intimidating the



witness or the informant. In case, it is found that anyhow he
indulge in such type of activities, the informant shall be at
liberty to file an application for cancellation of his bail bond(s).

(Harish Kumar, J)

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