

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55798 of 2023

Arising Out of PS. Case No.-296 Year-2021 Thana- DAGARUA District- Purnia

Ghulam Ghous, aged about 24 years, Male, S/O Md Hasibur Rahman, R/O
Village- Majlispur, P.S.. Baisi, Dist. Purnea.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate and Mr. Kumar Rajdeep, Advocate
For the Informant	:	Mr. Vikram Singh, Advocate
For the State	:	Mr. Chandra Sen Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 18-03-2024 Heard learned senior counsel for the petitioner, learned counsel for the informant and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Dagarua P.S. Case No. 296 of 2021 dated 20.10.2021 registered for the offences punishable under Sections 376, 420, 467, 468, 313, 511, 323, 504, 506/34 of the I.P.C. and Sections 4/6 of the POCSO Act, 2012.

3. As per the prosecution case, the petitioner used to visit the house of the informant and said her that he wants to marry her. On that assurance, the petitioner established physical relationship with her as a result of which, she became pregnant.



When the informant asked the petitioner about her pregnancy, he wanted to get her child aborted but she refused to do the same. It is further alleged that the petitioner assaulted her but anyhow, she came to her house after saving her life and narrated her parents about the incident. Thereafter, her father went to the house of the petitioner and requested for marriage of her daughter but the family members of the petitioner abused, assaulted and ousted from there. A Panchayati was also held but the petitioner did not agree for the same. Hence, the F.I.R.

4. Learned senior counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that there was love affair between the parties since the year 2020 and there is also a son out of the relationship between them. It is further submitted that from the F.I.R., it is evident that both parties are known to each other as the petitioner used to visit the home of the informant oftenly. It is submitted that both parties performed marriage as per Muslim/Mohammedan Law for which a certificate has also been issued by the Maulvi/Maulana of Baisi Masjid on 20.07.2020. Both parties are living together as a husband and the wife for which the family members of the petitioner was also ready. The petitioner and the informant were more than 18



years at the time of marriage. It is further submitted that the petitioner and his family members never attempted to get her child aborted. It is further submitted that the petitioner is still ready to keep the informant with full honour and dignity and this fact was also submitted before the learned Sessions Judge and if the informant wishes to solemnize marriage, the petitioner is again ready for it as stated in paragraph no. 17 of the bail petition. Learned counsel for the petitioner has submitted that the informant and the petitioner chose to have physical relationship of their own will. Learned counsel for the petitioner has 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.” The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

5. Learned A.P.P. for the State and learned counsel for the informant have opposed the prayer for anticipatory bail of the petitioner.

6. Considering the aforesaid facts and circumstances



of the case, 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 court concerned, Purnea, in connection with Dagarua P.S. Case No. 296 of 2021, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:-

(I) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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