

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61631 of 2024

Arising Out of PS. Case No.-10 Year-2024 Thana- NAUTAN District- West Champaran

Saifullah Ansari son of Islam Mian @ Islam Ansari Village- Khalawa Gahiri
Tola, P.S. - Jagdishpur, Dist- West Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Sarvesh Kashyap
For the Opposite Party : Mr.Tapeshwar Sharma

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 11-09-2024 Heard learned counsel for the petitioner and
learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Nautan P.S. Case No. 10/2024 dated 09.01.2024 registered for the offence punishable u/s 376, 420, 323, 504, 120B read with 34 of the Indian Penal Code.

3. As per the prosecution case, the petitioner is alleged to have committed rape on the informant forcibly after entering her room. On being objected, the petitioner promised to marry him and made her pregnant for four months.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been



implicated in this case. The petitioner is *devar* of the informant. Learned counsel has submitted that the victim is a major lady who knows the consequence of the act of the petitioner. The informant has alleged that on 10.02.2023, the petitioner entered in her room and committed rape on her which is absolutely false because at the relevant date and time the petitioner was in Kerala for the treatment of his brother Nasrullah Ansari. It is further submitted that the victim has not been medically examined. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 14.05.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the victim in her statement recorded u/s 164 of the Cr.P.C. has supported the prosecution case. It is further submitted that the petitioner committed rape on the informant. Thereafter, the petitioner made false promise of marriage with a view to save his skin from the alleged offence. 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.”

6. Considering the aforesaid facts and circumstances of the case as well as nature of offence of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Nautan P.S. Case No. 10/2024 pending in the court of learned Chief Judicial Magistrate, Bettiah, West Champaran.

7. Learned court below is directed to conclude the trial of the petitioner at the earliest.

(Chandra Prakash Singh, J)

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