

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61090 of 2024

Arising Out of PS. Case No.-27 Year-2024 Thana- MAHILA PS District- Aurangabad

Amit Sharma @ Ajit Kumar Ram son of Ramkripal Ram @ Anil Sharma R/o
Village -Bhagwanpur, P.S. -Guthani, District -Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rubi Kumari Daughter of Krishna paswan village- Manura Bajilpur, Ps-obra, dist- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Nikita Mittal, Adv.

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP.

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

ORAL ORDER

2 10-09-2024 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 Aurangabad Mahila P.S. Case No. 27 of 2024 dated 24.04.2024 registered for the offences punishable u/ss 341, 323, 376 and 506 of the Indian Penal Code.

3. As per the prosecution case, the petitioner is alleged to have established physical relationship with the informant on false pretext of marriage and she became pregnant.

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



this case. It is next submitted that when two consenting adults establish physical relation, the same is not an offence, if there is an affirmative conscious and voluntary consent to engage in physical relation. Learned counsel for the petitioner placed reliance on the judgment in the case of *Tanveer Iqbal vs. State and others 2018(2) Crimes (HC) 264*, it was held that “when there is a long duration of consensual physical relationship between the two under the pretext of marriage that the accused will marry her but now backed out and it has not been alleged even by the prosecutrix that false promise of marriage was made for establishing physical relationship, it is thus simple a case of courtship and consensual physical relation between the two grownup which even did not end up tying nuptial knot is not a case of commission of rape.” Learned counsel for the petitioner 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.” It is next submitted that there is no chit of paper on record which suggests that the victim is pregnant. The petitioner has clean antecedent



as stated in para 3 of the bail petition. The petitioner is in custody since 04.05.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Aurangabad in connection with Aurangabad Mahila P.S. Case No. 27 of 2024.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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