

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63549 of 2023

Arising Out of PS. Case No.-7 Year-2023 Thana- MAHILA P.S. District- Araria

Md. Barik @ Abdul Barik Son of Late Mohammad, R/o vill - Barhuwa Matiyari, ward no. 1, P.S. - Jokihat, Distt. - Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Fekni Wife of Late Shakib, R/o vill - Barhuwa Matiyari, ward no. 1, P.S. - Jokihat, Distt. - Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-02-2024 Heard Mr. Md. Najmul Hodda, the learned counsel

for the petitioner and Mr. Madhura Nand Jha, the learned

Additional Public Prosecutor for the State.

2. Vide order dated 17.10.2023, a notice was issued to

the Opposite Party No. 2. Office report suggests that Opposite

Party No. 2 has received the notice, despite all that, no one has

appeared on behalf of the Opposite Party No. 2.

3. The petitioner is apprehending his arrest in

connection with Mahila PS Case No. 07 of 2023, FIR dated

06.03.2023, registered for the offences punishable under

Sections 341, 323, 376 and 504 of the Indian Penal Code and

Section 4 of POCSO Act.



4. According to prosecution case, one Md. Barik committed rape with the daughter of the informant forcefully and when she became pregnant he refused to marry her.

5. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case and the allegation levelled in the FIR is false and fabricated and the petitioner has not committed any offence as in the FIR. He further submits that the victim is not a minor and he has annexed the school transfer certificate of the victim, which suggests that the victim was minor on the date of occurrence and after that the petitioner has performed marriage with the victim on 20.03.2023 in presence of witnesses and the petitioner is ready to keep the victim as his wife with full dignity and honour.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

7. Considering the aforesaid facts and circumstances and the fact that the petitioner has clean antecedent, he has performed marriage with the victim and he is ready to keep the victim as his wife, let the petitioner, above-named, in the event of his arrest or surrender before the Court below, within a period of four weeks from the date of receipt of the order, be released



on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-VI-cum-Special POCSO Judge, Araria, where the case is pending in connection with **Mahila PS Case No. 07 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the Court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the Court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order



shall not be delayed for purpose of or in the name of verification.

(iv) One of the bailors should be the victim namely, Atrafan, who happens to be the wife of the petitioner.

(Rajesh Kumar Verma, J)

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