

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69961 of 2023

Arising Out of PS. Case No.-42 Year-2021 Thana- MAHILA P.S. District- Bhojpur

Govinda Kumar @ Govinda Yadav @ Govinda Kumar Yadav Son of Late Haridarshan Singh Yadav @ Ram Darshan Resident of Village -Bihiya (Khadara), Ps -Jagdishpur District- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nidhi Kumari D/o Late Chandrama Prasad, R/o Village Gayghat, South Gali, P.O. Guljarbagh, P.S. Alamganj, Dist. Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh, Adv.
For the State	:	Mr. Ganesh Prasad Singh, APP
For the Informant	:	Mr. Anil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

5 12-03-2024 Heard learned counsel for the petitioner and learned APP for the State as also counsel for the Informant. Perused the case diary.

2. The petitioner seeks bail in connection with Bhojpur Mahila P.S. Case No. 42 of 2021 instituted for the offences under Sections 376, 504, 509 of the Indian Penal Code.

3. As per prosecution case, the accusation against the petitioner is of sexually exploiting the informant/victim girl on the false pretext of marriage. It is alleged that whenever the victim girl asked him to marry, the accused/petitioner lingered it on the one pretext or the other. In the meantime, the victim/informant became pregnant and the accused/petitioner



refused to marry her. It is further alleged that the accused/petitioner has solemnized marriage with another girl.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. The girl is a 21 years of age and thus is mature. He further submits that the petitioner was granted provisional bail by the court below with a condition to get marry with the Informant but, the informant herself refused to marry with the petitioner. However, Mediation Center also failed in their amicable settlement regarding marriage. He further submits that the petitioner and the Informant were consenting parties and, hence, no offence of rape is made out against the petitioner. In this regard, he has placed reliance on the cases of the Hon'ble Supreme Court since reported in **2018 SCC Online SC 3100 (Dr. Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra & Ors.)** and **(2019) 9 SCC 608 (Pramod Suryabhan Pawar Vs. The State of Maharashtra & Ors.)**. In the statement under Section 164 Cr.P.C., the victim girl has stated that she fell in love with the petitioner and thereafter, the physical relationship was made between them. The petitioner has one criminal antecedent as has been stated in paragraph no.2



of the supplementary affidavit. The petitioner is languishing in judicial custody since 11.08.2023. Charge-sheet has been submitted in this case.

5. Learned A.P.P. for the State and the Informant has vehemently opposed the prayer for grant of bail to the petitioner. He submits that the Informant has supported her case in her re-statement. The Informant in her statement under Section 164 Cr.P.C. has stated that the petitioner sexually exploited her and when she became pregnant, he left her and solemnized his marriage with another girl and, thus, the petitioner does not deserve bail.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the victim is 21 years old and both were consenting parties, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Bhojpur Mahila P.S. Case No. 42 of 2021, subject to conditions that;

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

(ii) The petitioner shall appear on each and every date



fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

