

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70853 of 2023

Arising Out of PS. Case No.-502 Year-2023 Thana- MOTIHARI TOWN District- East
Champaran

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Md. Shahruk Alam @ Md. Sharkuh Alam, Son of Mohammad Faruk Alam,
Resident of Chikpatti, Ward No. 15, P.S.-Motihari(T), District-East
Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. Ansul, Advocate Mr. Anuj Kumar, Advocate
For the State	:	Mr. Rajendra Prasad Nat, APP
for the Informant	:	Mr. Shashi Suman Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 27-02-2024 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State duly assisted by

learned counsel for the informant.

2. The accused/petitioner is named in the FIR

and apprehending his arrest in connection with Motihari (T)

P.S. Case No.502 of 2023 registered under Sections 376, 504

and 506 read with 34 of the Indian Penal Code.

3. Allegation against the petitioner is to commit

rape upon informant on false pretext of marriage, where on

first occasion, rape was committed after providing adulterous

cold drinks, making victim senseless.

4. It is submitted by Mr. Ansul, learned counsel

appearing on behalf of the petitioner that the petitioner has



been falsely implicated with present case. It is pointed out that when for any of the social reason the marriage of victim could not negotiated finally with petitioner, the present false case was lodged. It is submitted that the thrust of allegation is demand of dowry which assigned as main reason for failed marriage negotiation. It is submitted that the statement of victim/informant, who herself authored FIR is different on material aspects *qua* her statement as recorded under Section 164 of the Code of Criminal Procedure (for short 'Cr.P.C.'). It is further submitted by learned counsel that entering into any kind of corporeal relation with a person on the pretext of getting marriage cannot be termed as rape. In support of his submission, learned counsel has relied upon legal report of Hon'ble Supreme Court rendered in the case of **Ansaar Mohammad vs. State of Rajasthan [(2022) SCC Online SC 886]**. Learned counsel also relied upon the legal report of Hon'ble Supreme Court rendered in the case of **Pramod Suryabhan Pawar vs. The State of Maharashtra and Ors. [(2019) 9 SCC 608]**. While concluding argument, it is submitted by learned counsel that the petitioner is a man of clean antecedent.

5. Learned APP duly assisted by learned



counsel appearing on behalf of the informant while opposing the prayer of bail submitted that allegation of rape is specific against this petitioner.

6. In view of aforesaid factual submission and by taking note of fact as allegation of rape *prima facie* appears to be raised out of false promise of marriage, where the statement of victim appears *prima facie* contradictory on material aspects as narrated through FIR *qua* her statement recorded under Section 164 of the Code of Criminal Procedure, accordingly, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Motihari (T) P.S. Case No.502 of 2023, subject to the conditions as laid down under Section 438(2) of the CrPC.

(Chandra Shekhar Jha, J.)

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