

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73034 of 2024

Arising Out of PS. Case No.-81 Year-2024 Thana- MAHILA P.S. District- Patna

Samarjeet Bhagat Son of Sri Bikau Bhagat Resident of Village- Mukhiyapatti
Ward No. 4, PS -Saharghat, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Mishra
For the Opposite Party/s : Mr.Shailendra Kumar
Mr. Digvijay Kumar Ojha
Mr. Kamal Kishore Sinha

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 07-10-2024 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel appearing on behalf of the informant.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 64 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3 and 4 of the Dowry Prohibition Act.
3. The learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that on 18-11-2022, she was engaged with petitioner at AVR Hotel, Patna in presence of friends and relatives, further petitioner after engagement became adamant to establish physical relations but informant refused, next alleges that



thereafter both continued talking and after sometimes petitioner disclosed that he is suffering from cancer and the doctors have opined that he will live for 3-4 years, on which the informant said that still she will marry him and will lead a life of widow all her life, next alleges that petitioner called her on 3-12-2022 and asked her to come to Patna from Biharshariff on pretext of giving a gift and called her at hotel Patliputra Exotica in a room where he forcefully raped her at 8.30 pm and said that if she will disclose it to anyone then he will not marry her, thereafter the petitioner on 7-2-2023 took her to Bangluru, further alleges that petitioner on 28-2-2024 sent her a message informing that he had married another girl, accordingly the informant on 31-3-2024 came to Madhubani and found that petitioner has not married, next alleges that on 31-3-2024 the petitioner again established physical relations and assured that he will marry her and thereafter she came back to Patna, further alleges that petitioner and his family members started demanding dowry of Rs. 35 lakh and refused to marry.

4. The learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is next submitted that a very important fact has been concealed in the FIR. It is next submitted that informant is



trying to give an impression by instituting the instant FIR that engagement of the petitioner and the informant was performed on 18-11-2022 with consent of the parents. It is submitted that petitioner and the informant belong to different caste and they fell in love and thereafter the engagement was performed. It is also submitted that since the petitioner and the informant were in love and belonged to different caste and thereafter the engagement was performed as such it does not appear probable that the parents or the petitioner after performing the engagement would have demanded dowry. It is also submitted that the informant in the initial part of the FIR alleges that after engagement, the petitioner became adamant to enter into physical relations, which get belied by the fact that petitioner and the informant were known to each other prior to the engagement itself. It is also submitted that informant prior to coming in relationship with the petitioner was having an affair with a boy named Rahul Chandan and after engagement, the petitioner came to know that the relationship is continuing when informant had assured that she will maintain distance from him on account of which the relationship broke. It is further submitted that as far as allegation of establishing physical relation is concerned, the same was consensual and was not on



account of the fact that petitioner in position of trust had cheated her but when he came to know that informant is still continuing her relationship with Rahul Chandan, as such, the engagement was called off and thereafter the instant false case came to be instituted. It is also submitted that from the allegation as alleged in the FIR, it would also manifest that informant alleges that on 28-2-2024, the petitioner sent a message informing that he has married another girl. It is submitted that informant was sure that petitioner has not married any other girl as such she did not rush to the petitioner after reading the said message, but alleges that after more than a month, she came to Madhubani to inquire, which amply demonstrates that the informant was well aware of the joke cracked on her by the petitioner. It is next submitted that had the informant not continued with her relation with Rahul Chandan then definitely the marriage would have been performed. It is also submitted that it absolutely does not stand to reason that if petitioner was adamant on establishing physical relations before marriage then why the informant did not call off the marriage instantly. It is next submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence that it is not a case of rape nor petitioner in position of trust cheated the informant rather the relationship



broke on account of the fact that petitioner came to know that informant is still continuing her relation with Rahul Chandan.

5. The learned APP and learned counsel appearing on behalf of the informant opposes the anticipatory bail application. The learned counsel appearing on behalf of the informant placing reliance on Section 69 of the Bharatiya Nyaya Sanhita submits that it may not be a case of rape but then a person who has sexual intercourse by using deceitful means or by making promise to marry to a woman without any intention of fulfilling the same may not amount to rape but shall be punished with imprisonment which may extend to 10 years, on which the learned counsel for the petitioner submits that if petitioner had any intention of establishing physical relation on pretext of marriage, in that event, he would not have performed his engagement with the informant.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case



is pending/successor court in connection with Mahila P.S. Case No. 81 of 2024 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, it is made clear that in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioner after recording reasons.

8. It is further made clear that if charge sheet is submitted connecting the petitioner with the offence, in that event, the present anticipatory bail order shall lose its effect.

9. Let a copy of this order be sent to the concerned police station through the learned Trial Court.

(Satyavrat Verma, J)

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