

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74780 of 2023

Arising Out of PS. Case No.-19 Year-2023 Thana- MAHILA PS District- Gaya

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PANKAJ SAW @ PANKAJ SHAH @ PANKAJ SON OF DEEPAK SAW @
DEEPAK KUMAR RESIDENT OF VILLAGE- KARAN VIHAR, GUPTA
NIWAS, M S MAMTA DEVI H. NO 87, K H NO 646, KARAN VIHAR, PH-
5 NORTH WEST DELHI 86, PS- SULTANPURI, NEW DELHI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rama Kant Singh, Adv. Mr.Kumar Shankaram, Adv.
For the Opposite Party/s	:	Mr.Bharat Bhushan, APP
For the Informant	:	Mr.Anshul, Adv. Mr.Kumar Rajdeep, Adv. Mr.Arvind Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

3 15-01-2024 Heard learned counsel for the petitioner, learned counsel
for the informant and learned APP for the State.

2. Petitioner apprehends his arrest in a case registered for the
offence punishable u/s 376, 493, 420, 504, 506/34 of IPC.

3. As per the prosecution case, marriage of the informant was
fixed with the petitioner and on 16.02.2021, the father of the
petitioner came to Gaya at Manisha Hotel, Gurudwara Road and
demanded Rs.Twenty Lacs. On 12.11.2021, the ring ceremony
was performed in Grand Place Hotel, Gurudwara Road and prior
to the ring ceremony, her father paid Rs.Ten Lacs. It is said that
total Rs.Ten Lacs were expended in ring ceremony and the bill



was paid by the informant's father. It is alleged that full family members of the petitioner stayed at Gaya till three-four days and kept the informant along with them in the hotel by saying that now they have become the family members. It is alleged that petitioner forcibly established physical relation with the informant and under a conspiracy, clicked some obscene photos in mobile. There was a continuous talk between the informant and the petitioner, which the petitioner was recording with a view to blackmail the informant. It is alleged that when the family of the informant asked for the date of marriage, it was always delayed on one pretext or the other. Thereafter, on 20th November, hot talks were exchanged between the father of the informant and the father of the petitioner and accused Deepak Shaw had lodged two *sanhaa* against the father of the informant in Delhi with a view to escape from the allegation if any case will be lodged against them by the informant. Further demands were made but father of the informant denied to pay any further money, then Deepak Shaw threatened him that marriage of Pankaj will not be solemnized with your daughter and if your daughter will solemnize marriage with anyone else, then all the videos, audios and photos will be made viral. It was also told by mother of the petitioner that either accept the demand of Twenty Lakhs cash



and pay the money in cash or pay all bills of the hotel and other expenditures. On 23.11.2022 after humiliation, the father of the informant returned and narrated the whole story to his family and informant came to understand that the petitioner has blackmailed her and cheated her family and money.

4. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has committed no offence. He has been falsely implicated in this case due to grudge. No such occurrence, in the manner as alleged, has ever taken place. The petitioner's family reside in Delhi and informant's family resides in Gaya, Bihar. The allegation has been levelled against the petitioner with a view to harass and pressurize him for marriage, though the negotiation of marriage was done after suppressing some major facts by the informant and her family members. If the petitioner will agree for this marriage, it would be a life threatening decision for him because the informant's family is veteran criminal of their area. The present FIR is lodged after a delay of more than one and half year. The first complaint was filed by the informant's father before Human Rights Commission, Gaya on 13.01.2023 but the same was not pursued. The informant and the informant's family did not disclose the fact about criminal history of the father and the brother of the



informant at the time of negotiation of marriage and the marriage was fixed by suppression of above stated fact. The allegation with regard to giving Rs.10 Lakh before engagement or with regard to expenditure of Rs.10 Lakh in engagement are not supported by any evidence either documentary or other. In fact only 9 persons came from the petitioner's side which is clear from the returning tickets of the petitioner (Annexure-P/2 series of the bail petition). The allegation with regard to establishing sexual relations with the informant by the petitioner after engagement is baseless and false as the father of the informant in his complaint dated 13.01.2023 before Human Rights Commission, Gaya did not mention anything about establishment of sexual relationship between the petitioner and the informant but in a planned manner mentioned this exaggerated version in the F.I.R. dated 13.03.2023. The informant's father did not pursue his complaint filed before the Human Rights Commission, Gaya which was forwarded to Chairperson National Commission for Women and then same was forwarded to concerned police station (Crime Against Woman, Cell, Delhi). Though information to join the enquiry against his complaint was communicated to informant's father by Crime Against Woman, Cell, Delhi but the informant's father chose not to join the enquiry, reason best



known to him, which is clear from Annexures-P/6, P/7 and P/8 series of the bail petition. Allegation with regard to 3-4 days stay in Gaya hotel after engagement is wrong and false because the date of engagement was 12.11.2021 and the returning ticket of petitioner and his family was 14.11.2021. In our society and culture and particularly in areas like Gaya, Bihar, the parents of a girl never allows their daughter to stay with a boy before marriage, especially in case of arrange marriage. Learned counsel for the petitioner submits that after engagement ceremony, during talks over phone, some differences arose between the petitioner and the informant. During argument, the informant disclosed the criminal history of her family members and threatened the petitioner that marriage will be done in Gaya and after marriage we will also settle in Gaya because she is the only daughter of his parents and if the petitioner will not be ready for this proposal then he and his family will face dire consequences. It is further submitted that the petitioner some how managed to get information with regard to some cases lodged against the father of the informant which is (a) Buniyadganj P.S. Case No.42/98, (b) Buniyadganj P.S. Case No.50/2000, (c) Buniyadganj P.S. Case No.59/04, (d) Buniyadganj P.S. Case No.5/09 (e) Buniyadganj P.S. Case No.33/10, (f) Buniyadganj P.S. Case



No.121/17 (g) Buniyadganj P.S. Case No.240/2018 and (h) Gaya Civil Lines P.S. Case No.255/2023. The father of the petitioner to protect his family, on 09.06.2022, made a complaint before the SSP, Gaya, Police-In-Charge Kotwali and SHO, Prem Nagar, Delhi through Speed post and on 20.02.2023 before SHO Aman Vihar but till date no action has been taken by the concerned Authority in this regard. The present case has been filed against the petitioner with a view to pressurize the petitioner for marriage though at the time of settlement of marriage, the informant concealed several vital facts about her and her family members from the petitioner. It is further submitted that during case enquiry, no independent witness was examined by the Investigating Officer which raises a question about the mode and manner of the enquiry conducted by the concerned police. It is lastly submitted that no sections under 493, 376 and 420 of the IPC is made out against the petitioner as the petitioner's case does not come within the mandatory ingredients of the said sections which is required for implication of said sections on a person.

5. Learned APP for the State as well as learned counsel for the informant opposed the prayer for bail by submitting that in the case diary, the witnesses have supported the prosecution case.



Though, the medical report suggests the age of the victim as 19 years and it is also mentioned in the case diary that there is no sign of recent sexual intercourse but it is mentioned that rape cannot be denied. It is further submitted that in para-21 of the supervision report, the case was found true against the petitioner's side and it has been alleged that the physical relationship was made on false assurance. In this way, the petitioner has spoiled the entire life of the informant/victim.

6. Having regard to the facts and circumstances of the case and on perusal of the record, it is clear that the victim/informant is a minor and there is no documentary evidence and medical report which shows that the informant was sexually abused by the petitioner. Further, there is no documentary evidence regarding the expenditure in the engagement ceremony. Therefore, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Gaya Mahila P.S. Case No.19 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.



7. However, petitioner is directed to co-operate in the investigation and trial and he shall appear before the Court below, when the Court shall fix the date and in failure to appear on two consecutive dates, the bail bond of the petitioner shall be cancelled by the Court below itself.

(Anjani Kumar Sharan, J)

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