

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80991 of 2024

Arising Out of PS. Case No.-5 Year-2023 Thana- SULTANGANJ District- Patna

Hasnain Sajjad Son of Late Raiyad Sajjad R/O Vill.- Dargah Road,
Muhammad Colony, P.S.- Sultanganj, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sana Praveen D/O Irshad Khan R/O Vill.- Dargah Road, Terahe ki Misjid,
P.S.- Sultanganj, Dist.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Adv.

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 04-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with
Sultanganj P.S. Case No. 05 of 2023 dated 04-01-2023,
instituted for the offence punishable under Sections 341,323,
315, 376, 377, 504 and 506/34 of the Indian Penal Code and
Sections 3 and 4 of the Dowry Prohibition Act.

3. Allegation against the petitioner is that he
committed rape with the informant on the pretext of marriage.
Further allegation is that while the informant narrated the
occurrence to her mother then she went to the house of
petitioner wherein, mother of the petitioner assured her that her



son will be married with the informant. In the meantime, informant got pregnant, which was aborted by the petitioner. It is further alleged that the informant was abused and assaulted by the petitioner and also made unnatural sex with her. Further allegation is that while the informant tried to get marry with him then he started demanding Rs. 30 to 40 lakhs and also threatened to make her photo and video viral.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is submitted that from bare perusal of the FIR, it would appear that first date of occurrence is of the year 2015 and the second date of occurrence is of the year 2021. It is submitted that the present FIR has been lodged after 08 years of the first occurrence and three years of the second occurrence. There is no plausible explanation for the delay in lodging the FIR. It is submitted that prior to this case mother of the petitioner has filed Complaint case bearing Complaint Case No. 1548 of 2022 dated 23-12-2022 against the informant for the offence under Sections 341, 323, 380, 354/34 of the IPC and Sections 67 and 67A of the I.T. Act. In retaliation, the present false and frivolous case has been registered against the petitioner as a counter case to save their skin from earlier case. Further



submission is that this is consented sex and no offence of rape is made out. Reliance has been placed in the case of ***Deepak Gulati vs. State of Haryana*** reported in ***(2013) 7 SCC 675***, wherein, the Hon'ble Apex Court has held that sexual relationship between two willing adults cannot be rape under Section 376 of the IPC. Allegation against the petitioner is that he committed rape with the informant on the pretext of false assurance of marriage and established physical relation with the victim/informant. Lastly, it has been submitted that he has clean antecedents.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner. It is submitted that in the year 2021 informant got pregnant which was aborted by the petitioner. There is specific allegation against the petitioner of committing rape.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Sultanganj P.S. Case No. 05 of 2023, he will be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM Patna, subject to condition as laid down under Section



438(2) of the Cr.P.C

7. The application stands allowed.

(Khatim Reza, J)

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