

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2264 of 2024

Arising Out of PS. Case No.-118 Year-2023 Thana- RISIYAP District- Aurangabad

Md. Musafir @ Md. Musafir Alam, aged about 23 years (Male), son of
Kamaruddin, Resident of Village- Pahara, P.S. -Risiup, District -Aurangabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Binod Kumar Pandey, Advocate
For the Opposite Party : Mr. Bhanu Pratap Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 08-07-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Risiup
P.S. Case No. 118 of 2023 dated 12.08.2023 registered for the
offences punishable under Sections 376, 504, 506 of the I.P.C.,
Sections 67, 67A, 67B and Section 72 of the I.T. Act.

3. As per the prosecution case, the petitioner and the
victim used to talk to each other since 2020. In the year, 2022,
the petitioner had objectionable photo and video of the victim.
He used to force the victim to flee away from the house and on
being protested, he established physical relationship with her
after black mailing her. He also sent photo and video to the
sister of the victim and his friend and he put all the photos and



video in her Id of Fb Insta and also threatened to kill her. Lastly, she has narrated all the story to her family members. It is further submitted that her examination for B.Com, Ist year, was going to be held on 17.08.2023 for which he threatened that he would not allow her to appear in the said examination and not let her allow to marry elsewhere.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the allegation levelled against the petitioner is false and concocted. It is submitted that both parties are major as it is apparent from the statement of the victim recorded under Section 164 Cr.P.C. There is no statutory compliance of Sections 53A and 164A of the Cr.P.C. It is further submitted that it has not been mentioned in the F.I.R., that when and where rape was committed on the victim by the petitioner. It is submitted that the victim is a major girl who knew the consequence of the act of the petitioner. The informant denied to be examined medically. Learned counsel for the petitioner has further submitted that the victim and the petitioner chose to have physical relationship with their own will. Learned counsel for the petitioner placed reliance on the judgment in the case of ***Mandar Deepak Pawar Vs. State of Maharashtra & Anr.***



(Criminal Appeal No. 442 of 2022) in which “a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled.” The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 13.08.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M. Aurangabad, in connection with Risiup P.S.Case No. 118 of 2023 with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.



7. The application stands allowed.

(Chandra Prakash Singh, J)

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