

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1727 of 2024

Arising Out of PS. Case No.-24 Year-2023 Thana- MAHILA P.S. District- Sitamarhi

Rakesh Kumar @ Rakesh Kumar Nirala aged about 31 years, male, S/o Sohan Prasad, R/o Village- Riga road, Ward No. 8, P.S.- Sitamarhi, Distt- Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Ashhar Mustafa, Advocate
For the Informant	:	Mrs. Madhubala verma, Advocate
For the Opposite Party	:	Mr. Murli Dhar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 26-06-2024 Heard learned counsel for the petitioner and learned counsel for the informant as well as learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Sitamarhi Mahila P.S. Case No. 24 of 2023 dated 22.08.2023 registered for the offences punishable u/ss 341, 323, 326, 347, 348, 376, 307, 504 and 506 of the Indian Penal Code.

3. As per the prosecution case, the petitioner is alleged to have used to commit rape on the victim since 2021 and he also made her nude video after giving intoxicated substance and used to blackmail her and also threatened to kill her.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this



case. It is further submitted that the informant has lodged two FIRs against the petitioner being cyber (Sitamarhi) P.S. Case no. 06 of 2023 on 27.07.2023 and Sitamarhi Mahila Police Station Case No. 24 of 2023 on 22.08.2023. It is further submitted that the informant herself denied for medical examination. It is further submitted that the informant did not mention about the physical assault and blackmail in her first FIR lodged on 27.07.2023 being cyber (Sitamarhi) P.S. Case no. 06 of 2023 thereafter, she again lodged another FIR against the petitioner for the same occurrence. The informant is a married woman. The victim is a major girl who knew the consequences of the act of the petitioner. Learned counsel has further submitted that the victim girl and the petitioner chose to have physical relationship of 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 two criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 24.08.2023.

5. Learned counsel for the informant as well as learned



A.P.P. for the State has vehemently opposed the bail petition of the petitioner and stated that the petitioner used to establish physical relationship with the victim and he also used to blackmail her.

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 Court concerned, Sitamarhi in connection with Sitamarhi Mahila P.S. Case No. 24 of 2023, with the 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 bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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