

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78356 of 2025

Arising Out of PS. Case No.-87 Year-2025 Thana- MAHILA P.S. District- Patna

Deepankar Gaurav S/O Siya Ram Sharma R/O Vill.- Purna, P.S.- Karpi, Dist.-
Arwal

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lavli Kumari D/O Ganesh Mahto R/O Bazar Samiti, Ram Krishna Colony,
Post- Mahendru, P.S.- Bahadurpur, Dist.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate Mr. Rakesh Kumar Sharma, Advocate Mr. Rahul Singh, Advocate Mr. Adarsh Parashar, Advocate
For the Opposite Party/s	:	Mr. Kumar Rajiv, Advocate
For the State	:	Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 03-12-2025 Heard the learned Senior counsel for the petitioner,

learned counsel for the complainant / O.P. No.2 and learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Mahila P.S. Case No.87 of 2025, F.I.R dated 24.07.2025 registered for the offences punishable under Sections 69, 75, 115(2), 126(2), 216(2), 318(4) of the Bharatiya Nyaya Sanhita, 2023.

3. According to prosecution case, the complainant, Lavli Kumari (29), filed Complaint Case No. 8614/2025 alleging that the accused befriended her, proposed marriage, and



repeatedly established physical relations with her in various hotels by assuring that he would marry her. She states that even the accused's father initially consented to their marriage. Later, the accused allegedly demanded Rs.2 lakhs for marriage preparations. On 03.06.2025, she and her mother discovered that the accused was instead marrying another woman. When they approached the accused's father, he allegedly abused, misbehaved, and threatened them. She alleges that the accused sexually exploited her under false promise of marriage and that despite informing Mahila Police Station and the S.P., no action was taken, leading her to file the present complaint.

4. Learned Senior counsel for the petitioner submits that from the First Information Report, it is apparent that the informant of this case is major and knew the consequences of the relationship which was established with this petitioner, and mere break-up of a relationship for the reasons stated above in the complaint case, cannot be a ground to initiate the prosecution of the present kind, which is said to have been set on motion. From the First Information Report, it also appears that on 07.06.2025, the petitioner was going to get married and after some altercation, the informant lodged the present case.

5. The Hon'ble Apex Court in a number of cases has



held that in cases where the informant, who is a major and knew about the consequences, cannot be permitted to make such allegations with regard to assurance of marriage having been given in lieu of sexual relations for giving color of criminality to initiate the prosecution at hand.

6. The reference of the judgment of Hon'ble Apex Court recorded in the case of ***Prashant vs. State of NCT of Delhi***, reported in ***(2025) 5 SCC 764*** is made, wherein it has been observed that a mere break-up of a relationship between a consenting couple cannot result in the initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality, when the said relationship does not fructify into a marriage. The relevant portion is extracted as under:

“20. In our view, taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offence under Section 376(2)(n)IPC are absent. A review of the FIR and the complainant's statement under Section 164CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature. A mere break up of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not



fructify into a marital relationship. Further, both parties are now married to someone else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution.”

7. A similar view also has been taken in the case of ***Rajnish Singh vs. State of Uttar Pradesh***, reported in (2025) 4 SCC 197, whereby it was held that when a woman who willingly engages in a long-term sexual relationship with a man, fully aware of its nature and without any cogent evidence to show that such relationship was induced by misconception of fact or false promise of marriage made in bad faith from the inception, the man cannot be held guilty of rape under Section 376 of the IPC. The relevant portion of the judgment is extracted as under:

“33. There is no dispute that from the year 2006 onwards, the complainant and the appellant were residing in different towns. The complainant is an educated woman and there was no pressure whatsoever upon her which could have prevented her from filing a police complaint against the accused if she felt that the sexual relations were under duress or were being established under a false assurance of marriage. On many occasions, she even portrayed herself to be the wife of the appellant thereby, dispelling the allegation that the intention of the appellant was to cheat her right from the inception of the relationship.

34. We cannot remain oblivious to the fact that it was mostly the complainant who used to travel to meet the appellant at his place of posting. Therefore, we are convinced that the relationship between the complainant and the appellant was consensual without the existence of any element of deceit or misconception.

35. Further, the application filed by the complainant at



One Stop Centre, Lalitpur on 23-3-2022, makes it abundantly clear that she was in a consensual relationship with the appellant since 2006. It is alleged in the complaint that when she had proposed that they should marry and live together, the appellant physically abused her and beat her up. If at all there was an iota of truth in this allegation then the FIR should have been registered immediately after this incident. However, it is only when it came to the knowledge of the complainant that the appellant was getting married to another woman, in an attempt to stop his marriage, she filed aforesaid complaint at the One Stop Centre wherein she also admitted that she was equally guilty as the appellant and therefore, his marriage must be stopped.

xxx

39. It is, therefore, clear that the accused is not liable for the offence of rape if the victim has wilfully agreed to maintain sexual relations. The Court has also recognised that a prosecutrix can agree to have sexual intercourse on account of her love and passion for the accused.”

(underlined by me)

8. Learned APP for the State opposes the prayer for anticipatory bail application.

9. Considering the aforesaid facts and circumstances . Accordingly, this Court is inclined to grant the privilege of anticipatory bail to the petitioner.

10. Let the petitioner, above named, in the event of his/her arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate- 1st Class, Patna, in connection with Mahila P.S. Case No.87 of 2025, subject to the conditions as laid down under Section 438(2) of the Code of



Criminal Procedure / Section 482(2) of the Bhartiya Nagarik
Suraksha Sanhita and with other following conditions:-

(i) one of the bailors should be the family
member/relative of the petitioner(s) who shall provide official
document to show his/her bona fide;

(ii) the petitioner(s) shall appear on each and every
date before the Trial Court and failure to do so for two
consecutive dates without plausible reason will entail
cancellation of his/her/their bail bond by the Trial Court itself;

(iii) the petitioner(s) shall in no way try to induce or
promise or threat the witnesses or tamper with the evidences,
failing which the State shall be at liberty to take steps for
cancellation of the bail bonds;

(iv) the petitioner(s) shall desist from committing any
criminal offence again, failing which the State shall be at liberty
to take steps for cancellation of their bail bonds.

(Ajit Kumar, J)

sharun/-

U		T	
---	--	---	--

