

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.88387 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- RAFIGANJ District- Aurangabad

Md. Naushad Alam @ Md Noushad Aalam Son of Late Sarfraz Aalam
Resident of Kaaji Muhalla, Bichli Gali, P.S.- Bihar Sharif, District - Nalanda,
State - Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX Daughter of Md. Jahangir Alam Resident or Raza Nagar, Charkawan
Hazi, P.O. and P.S. - Rafiganj, District - Aurangabad, State - Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brajesh Sahay, Adv.
Mr.Amit Narayan, Adv.
For the Opposite Party/s : Mr.Yogendra Kumar, APP
For Opposite Party No.2 :

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-01-2025 Heard Mr. Brajesh Sahay, learned counsel for the

petitioner duly assisted by Mr. Amit Narayan, Mrs. Mukul

Kumari, learned counsel representing the Opposite Party No.2

as also Mr. Yogendra Kumar, learned APP.

2. The petitioner is in judicial custody in connection
with Rafiganj P.S. Case No. 234 of 2024 for the offences
punishable under Sections 376, 504 and 506 of the IPC and
sections 3 & 4 of the Dowry Prohibition Act, lodged on
14.06.2024 by the complainant.

3. As per the prosecution story, the complainant
alleged that she is cousin-sister of the petitioner, he established



the physical relationship on the pretext of marriage in the year 2020. Later, upon approach, they started demanding dowry of Rs. 10 Lac coupled with gold and a Scorpio car. Later, they also threatened of dire consequences if the same is reported to anyone. The victim, thereafter, approached the local Mahila Police Station of Aurangabad, and upon their failure to do so, to lodge the FIR, the complaint.

4. It is the case of the petitioner that firstly, the complaint is bereft of affidavit and as such, the same could not have been entertained by the court concerned. The further submission is that the relationship being consensual, it has been held in the case of *Prashant v. NCT of Delhi* passed in *SLP (Criminal) No. 2793 of 2024* by the Hon'ble Supreme Court that if the same ends in breakup, it does not constitute rape. The third submission is that the dowry and the criminal intimidation are exaggerated part only to make out the case. In that background, the petitioner deserves bail.

5. Mrs. Mukul Kumari, learned counsel representing the Opposite Party No. 2 as also learned APP jointly submits that it is not a simple case of consensual relationship and/or the breakup of the marriage. The fact remains that there is no breakup, rather the petitioner/family members wanted dowry



which included Scorpio Car, Rs. 10 Lac and the gold ornaments. Further, they were criminally intimidated repeatedly and thus, the said Supreme Court Judgment does not cover the present case.

6. Having gone through the facts of the case as also the materials on record, the submission of the parties, this Court finds force in the submission of the learned counsel appearing for Opposite Party No.2 and also of the learned APP.

7. It is not a case of simple consensual relationship between the complainant and the petitioner. The story moved further inasmuch as the petitioner/family members demanded dowry as incorporated above, the family members including the lady was criminally threatened and in that background, for the present, this Court is not inclined to extend him the privilege of bail. The petition, accordingly, stands dismissed.

(Rajiv Roy, J)

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