

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89031 of 2024

Arising Out of PS. Case No.-31 Year-2024 Thana- MAHILA P.S. District- Madhepura

Babu Khan S/o Md. Abbas Resident of village- Makdampur, PS- Puraini,
District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar
2. X D/o Md. Aslam Victim/Informant of Madhepura Mahila P.S. case no. 31/2024, through her father Md. Aslam, R/o vill - Vanshagopal, P.s- Puraini, Distt.- Madhepura

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Sanjeev Kumar, Advocate
For the State	:	Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 29-01-2025 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Sections 323, 341, 376, 379, 504, 506 and 34 of the Indian Penal Code and Section 4 of the POCSO Act.

3. As per prosecution case, the victim-cum-informant has lodged the F.I.R. to that effect that her marriage was fixed with this petitioner in 2022. It is alleged that on 10.03.2024 at about 8 PM, this petitioner came to her house and made physical relations with her on the false promise of marriage and later on refused to marry her.

4. It is submitted by learned counsel appearing on



behalf of the petitioner that petitioner is innocent and has falsely been implicated in this case. F.I.R. has been lodged after inordinate delay of one month and there is no plausible explanation for the same. As a matter of fact, this petitioner, along with his brother, sister and mother have been made an accused in this case only with a view to harass and humiliate the family of the petitioner. No doubt there was a talk of marriage between the family members of the petitioner and family of the informant and for the same, Rs. 50,000/- were also given in the account of this petitioner but when the petitioner's family came to know that victim is a minor, they refused to marry and thereafter this false and concocted case has been lodged only with a view to put pressure upon the petitioner to marry the informant. It is further submitted that both parties are muslims and as such, P.O.C.S.O. is not applicable. It is next submitted that since there was negotiation between the parties for the purpose of marriage, as such, Section 376 of the Indian Penal Code is also not applicable. Petitioner claims clean antecedents.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner and submitted that petitioner is named in the F.I.R. and there is specific accusation that he committed rape with the



victim on the false promise of marriage. It is further submitted that the victim in her statement recorded under Section 180 of the B.N.S.S. has supported the prosecution case and has specifically stated that this petitioner has established physical relations with her on the false promise of marriage. The victim is minor.

6. Considering the aforesaid facts and circumstances, nature of accusation, statement of the victim and the fact that the victim is minor, the prayer for grant of anticipatory bail to the petitioner is rejected.

(Prabhat Kumar Singh, J)

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