

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62204 of 2021

Arising Out of PS. Case No.-20 Year-2021 Thana- MAHILA P.S. District- Nawada

Sumit Kumar, S/O Birendra Jha, R/o village- Sundil Deltanga, P.S.- Ratu,
District- Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 22-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Nawada Mahila P.S. Case No. 20 of 2021 registered for the alleged offences under Sections 323, 341, 376, 506 and 326 of the Indian Penal Code and under Section 66 (E) of the Information Technology Act.

As per prosecution case, the informant is the sister-in-law of the petitioner and allegation against the petitioner is that he established sexual relationship with her giving her threat and also prepared video-clips in compromising position and further



threatened her to release the same on social media, if she did not agree to his wishes. Further allegation is that he administered her some poisonous substances and the informant was referred to P.M.C.H. for further treatment, where she recorded her fardbeyan.

The learned counsel for the petitioner submits that howsoever reprehensible might be the act of the petitioner and informant, no offences under Section 376 IPC is made out from the facts of the case. The petitioner and the informant both are government servants and it is not believable that for 5 years or more she was in sexual relationship with the petitioner on being forced by the petitioner in the act. Even it is not believable that she was forced to consume any poisonous substance by the petitioner and during investigation, it came out that the informant herself sent a message regarding consumption of poisonous substances and on her call, the petitioner went there. Learned counsel further submits that so far as making video clips of the sexual relationship of the petitioner and informant is concerned, the same was completely consensual and this fact has been observed by the police during investigation and nothing was put on any social media site or made viral online. The petitioner is in custody since 01.06.2021 and charge-sheet



has been submitted.

Learned APP opposes the prayer for bail of the petitioner submitting that there is specific allegation against this petitioner that he committed rape with her time and again and also made video clips of their act.

Perused the records.

Having regard to the facts and circumstances of the case and considering the strong possibility of consensual act of the informant with the petitioner and also considering the improbability regarding other allegations along with submission of charge-sheet and the period of custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Nawada Mahila P.S. Case No. 20 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be the close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates



or in violation of the terms of the bail, the bail
bond of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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