

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31330 of 2022

Arising Out of PS. Case No.-118 Year-2021 Thana- MAHILA P.S. District- Araria

Md Masoom Reza @ Md. Masoom, Son of Md. Masud, Resident of Village-
Farsodangi, P.S.-Joki Hat, District-Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Uday Bhanu Rai, Advocate
For the Opposite Party/s	:	Mr. Nagendra Prasad, APP
For the Informant	:	Mr. Madhav Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-01-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Heard Mr. Uday Bhanu Rai, learned counsel
appearing on behalf of the petitioner, Mr. Madhav Jha, learned
counsel for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Araria Mahila P.S. Case No. 118 of 2021
registered for the offences punishable under Sections 376,
506/34 of the Indian Penal Code and Section 67/67(A) of the
Information Technology Act, 2000.

The prosecution case is based on a written report filed
by the informant alleging therein, that the husband of the



informant often remain away from home and in his absence, the petitioner started teasing her, however, she always ignored his conduct. It is alleged that one year ago, the petitioner used to talk some vulgar on her mobile and also made certain objectionable videos and after giving threat to make the video viral, he establish physical relationship. The informant was further threatened that if she will tell this fact to anyone, she would have to face dire consequences. It is further alleged that subsequently the vulgar videos and photographs were posted on social media.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it is evident that the relationship was for the last one year and in fact, it was a consensus relationship which later on, on a protest made by the family members, resulted into the lodging of the present case. He further submits that with regard to same occurrence, a complaint case has also been instituted by the informant, however, the learned Court below has taken cognizance only under Section 354(B), 354(C)/34 of the Indian Penal Code and Section 67(A) of the Information Technology Act, 2000. He also drawn the attention of this Court towards the statement of the sisters-in-law of the informant, wherein, they have categorically stated that in fact



the petitioner used to frequently come to the house of the informant and despite the protest being made and their persuasion to mend the ways, she did not pay any heed to their suggestion. He lastly submits that the petitioner is a man of fair antecedent and is in custody since 23.03.2022.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that during the course of investigation, witnesses have supported the prosecution case and it has been found that the obscene videos have been uploaded on social media and made viral.

Learned APP for the State by referring to the case diary and the statement of the victim recorded under Section 164 of the Cr.P.C. submits that the victim supported the prosecution case and she categorically stated that she was subjected to rape and exploitation at the hands of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the fact that the relationship was for the last one year before lodging of the FIR and the complaint but, during such period, no complaint has been made before any authority, which strengthen the submissions of the counsel for the petitioner, that there was consensual relationship, apart from the statement of the sisters-in-law of the victim and period of



custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate V, Araria in connection with Araria Mahila P.S. Case No. 118 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in



terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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