

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No. 78936 of 2019**

Arising Out of PS. Case No.-27 Year-2019 Thana- MAHILA P.S District- Supaul

Sanjeet Sada, aged about 24 years, Male Son of Kamal Sada, Resident of Village - Babhni Surat Patti Ward No.03, PS- Supaul, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Kumari, Daughter of Ram Japit Sada, Resident of Village - Babhanipurpatti, Ward No.3, PO and District- Supaul.
3. The Civil Surgeon, Supaul.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Vijay Kumar Mukul, Advocate  
For the State : Mr. Anant Kumar No. 1, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 09-08-2021**

The matter has been heard *via* video conferencing.

2. Heard Mr. Vijay Kumar Mukul, learned counsel for the petitioner and Mr. Anant Kumar No. 1, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Supaul Mahila PS Case No. 27 of 2019 dated 08.06.2019, instituted under Sections 341, 376 of the Indian Penal Code and 4 of the Protection of Children from Sexual Offences Act, 2012.

4. The case has been heard on a number of occasions and on the stand of learned counsel for the petitioner, the DNA



test of the child was also conducted which showed him to be the biological father. Thereafter, the petitioner had taken a stand that he would marry the opposite party no. 2 as his misgivings about the parentage of the child stood removed.

5. The Court had made sure that such stand was not taken under any duress and it has been recorded that the stand was that on his own volition, the petitioner and his family members had agreed to get the petitioner and the opposite party no. 2 married and to accept the child in the house. Pursuant to the same, an affidavit has been filed jointly by the parties in which it has been stated that they have married about two and a half months back and that the opposite party no. 2 and her child is living in the matrimonial home with due love and affection.

6. On 12.07.2021, while adjourning the matter, for filing of a joint affidavit by the petitioner and the opposite party no. 2, the Court had also called for a report from the Superintendent of Police, Supaul in the matter. Today, a report of the Superintendent of Police, Supaul dated 31.07.2021 has been brought on record in which statement of the parties as also the father of the opposite party no. 2, has been brought on record which indicates that both the parties are living together as husband and wife and there is no complain.



7. The Court would pause here to note that at paragraph no. 5 of the order dated 12.07.2021, there was a specific direction that the Superintendent of Police, Supaul to find with regard to the claim of the petitioner that he has married the opposite party no. 2. From the entire report and the statement of the persons, there is no indication that the parties have married and only it has been stated that they are living together as husband and wife.

8. The Court is constrained to observe that neither the Superintendent of Police, Supaul nor the learned APP have been vigilant in ensuring compliance of the direction of the Court in its order dated 12.07.2021, which shows sheer casualness on their part and is unfortunate.

9. The Court would deal with the conduct of the Superintendent of Police, Supaul, subsequently.

10. Coming on the merits of the matter, in view of there being a specific statement made in paragraph no. 3 that the parties have married some two and a half months back and the opposite party no. 2 and her child are living in the matrimonial home with the petitioner with full dignity and honour and the fact that learned counsel for the petitioner has submitted that the petitioner along with the opposite party no. 2 and his child had come to his chamber and he has also talked to them and is satisfied that good



relationship is prevailing between the parties, the Court is inclined to allow the prayer.

11. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 1<sup>st</sup> Additional Sessions Judge cum-Special Judge, Supaul in Supaul Mahila PS Case No. 27 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner give an undertaking before the Court that he shall keep the opposite party no. 2 and her child in the matrimonial home with full dignity, honour and security and shall take care of all their needs and that the opposite party no. 2 shall be free to meet, talk to and visit anyone she desires, without any led or hindrance either by the petitioner or his family members. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds.

12. It shall also be open for the prosecution and the opposite party no. 2/her guardians, to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court



concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

13. The petition, for grant of pre-arrest bail stands disposed of in the aforementioned terms.

14. However, in view of the short and simple direction given by the Court to the Superintendent of Police, Supaul at paragraph no. 5 in the order dated 12.07.2021, which reads as under:

*“5. Learned APP shall also obtain instructions from the Superintendent of Police, Supaul with regard to the claim of the petitioner that he has married the opposite party no. 2 and she and the child are living in the matrimonial home. The Superintendent of Police, Supaul shall also get verified that she is living in the matrimonial home peacefully, getting due acceptance from all the family members and without any fear.”*

not having been complied with, as there is not even a whisper as to whether the parties have married, the Court considers it appropriate that the Superintendent of Police, Supaul appears before the Court to explain as to how such lapse has been committed by him while submitting a report.

15. Thus, only for the purposes of appearance of the Superintendent of Police, Supaul and consideration of his explanation, the matter be listed on 23<sup>rd</sup> August, 2021, as the first item at 10:30 AM. The Superintendent of Police, Supaul shall file



his explanation and shall appear, through virtual mode if the physical functioning of the Court does not resume, on the next date.

16. Learned APP shall communicate the order to the Superintendent of Police, Supaul and shall also forward the link which would be sent to him for the next date.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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