

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7183 of 2015

Arising Out of P.S. Case No. -117 Year- 2014 Thana -MAHILA PS District- DARBHANGA

Abhishek Kumar Son of Raj Kumar Biyogi @ Ram Kumar Biyogi, Counsellor, Family Planning, Referral Hospital, Manigachhi, Resident of Government Quarter of Referral Hospital, Manigachhi, Post Office and Police Station - Manigachhi, District - Darbhanga, and Permanent address Village + Post Office - Mathurapur, Police Station - Warisnagar, O.P.- Mathurapur, Bazar Samiti, District- Samastipur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Kanhaiya Pd. Singh, Sr. Advocate.

For the Opposite Party/s : Mr. Raj Kishor Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 25-03-2015 Heard both sides.

The petitioner seeks bail in a case under Section 376 and other sections of the Indian Penal Code.

The informant prosecutrix made allegations that the petitioner resides in an adjoining quarters and he firstly committed rape with her on 09.03.2013. She further alleged that on the pretext of marriage, the petitioner continued to rape with the prosecutrix on 21.09.2013, 07.12.2013, 23.02.2014 and 24.02.2014. She became pregnant. The doctor also found her pregnant.

Sri Kanhaiya Prasad Singh, learned senior counsel for the petitioner, submitted that Dr. Sushila Thakur in Para 59 and

Dr. Rashmi Jha in Paras 63 & 64 of the case diary disclosed that their letter pads were misused and they did not give any medicine for abortion. The victim herself disclosed that she is a married lady. It is submitted that on the face of the allegations, it appears that the victim was consensual to have sex with the petitioner.

Learned A.P.P., however, opposed the prayer for bail.

On perusal of the record, it appears that the victim herself disclosed that she is a married lady. She disclosed that firstly the petitioner committed rape with her on 09.03.2013. He continued to commit rape with her on different dates on the pretext of marriage, but the prosecutrix raised no objection. On the face of the allegations, it appears that the prosecutrix was having consensual sexual relationship with the petitioner and she is a major lady.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Darbhanga in Mahila P.S. Case No. 117 of 2014 corresponding to G.R. No. 3909 of 2014.

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(Prabhat Kumar Jha, J)