

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29865 of 2014

Arising Out of P.S. Case No. -379 Year- 2013 Thana -SAUR BAZAR District- SAHARSA

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Shivjee Singh, Son of Late Yamuna Singh, R/o Village - Hatabariya, P.S. Pipra, District - Supaul at present Village – Kapasia, P.S. Sour Bazar, District - Saharsa

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate.

For the State: Mr. A.P.P.

For the Informant : Mr. Baxi S.R.P.Sinha, Sr. Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 07-01-2015 Heard Mr. Krishna Prasad Singh, learned Senior Advocate for the petitioner, learned A.P.P. for the State and Mr. Baxi S.R.P. Sinha, learned Senior Advocate appearing on behalf of the informant.

The petitioner seeks bail in Sour Bazar P.S. Case No. 379 of 2013 for the offence under 376, 506, 120(B) of the Indian Penal Code.

The victim filed complaint case making allegation that on 17.09.2011 when she went to the house of the petitioner for taking ‘Prasad’, the petitioner tried to outrage her modesty and committed rape with her. The victim herself disclosed that thereafter on the pretext that the victim would be married with the son of the petitioner, the petitioner continued to establish physical

relation with the victim. On 21.06.2013, while the victim was talking with the petitioner, her father saw and snatched her mobile, which was given to her by the petitioner. It is further alleged that on the pretext of getting the victim married with the son of the petitioner, the petitioner committed rape with her.

Learned counsel for the petitioner submits that the allegations are cook and bull story. The doctor did not find any sign of rape. The victim is habitual to sexual intercourse. She herself alleged that the petitioner had firstly established sexual relation with her in the year 2011, but she did not make any complaint. The story of establishing physical relation on the pretext that the victim would be married with the son of the petitioner appears to be quite improbable. The petitioner is in jail since 19.05.2014.

On the other hand, Mr. Baxi S.R.P. Sinha, learned Senior Advocate for the informant, vehemently opposed the prayer for bail and submitted that when the petitioner, for the first time, established physical relation with the petitioner, the victim was minor and, as such, her consent is immaterial. The petitioner continued to have sexual intercourse with the victim and, therefore, he does not deserve bail.

Having considered the facts that the victim herself

appears to be a consenting party; although her date of birth appears to be 03.02.1996 in the Bihar School Examination Board, the doctor did not find any sign of rape and the petitioner has already remained in jail for about eight months, the petitioner named above is directed to be released on bail on furnishing bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa in Sour Bazar P.S. Case No. 379 of 2013.

The trial court is directed to expedite the trial.

(Prabhat Kumar Jha, J)

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