

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41636 of 2015

Arising Out of PS.Case No. -55 Year- 2012 Thana -BELHAR District- BANKA

=====

1. Arbind Paswan, son of late Babulal Paswan, resident of village-
Malakpur, P.S.- Antichak, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Brij Nandad Prasad

For the Opposite Party/s : Mr. Upendra Kumar (App)

=====

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 15-10-2015 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is in custody in a case registered under
Sections 366, 366(A), 302, 201/34 and 376 of the Indian Penal
Code.

The prosecution case in, brief, is that on 7.7.2006
at about 10 P.M., the complainant along with his family members
were sleeping in their in-laws home. At that time 6-7 persons
entered in the house of the complainant in-laws and began to loot
the house of the in-laws of complainant and also began to search
Mangali Devi. The accused Arvind Paswan located Mangali Devi,
who had hidden herself inside the house. The accused persons are
alleged to have kidnapped the victim Mangali Devi and taken her

with them with intention to rape her.



It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. He is in custody since 06.07.2015. There is no allegation of tampering with the evidence against the petitioner. A complaint case was filed on 15.07.2006 for offences under Sections 377, 366A, 376, 302, 201/34 of the Indian Penal Code. Subsequently same was referred on 09.06.2012 for institution of First Information Report under Section 156(3) of the Code of criminal Procedure. The date of occurrence is said to be 07.07.2006. In course of investigation the father, brother and other independent witnesses were examined, whose statements are in paras 4,5 and 6 of the case diary. They have denied the allegation made in the complaint petition. The victim herself has also been examined. Her husband was also examined in course of investigation. There is no explanation on the part of the prosecution why the present case was instituted in the year 2012 as to when the alleged occurrence is said to have taken place in the year 2006. From perusal of para 32 of the case diary it would appear that there is no medical report to substantiate the allegation made in the complaint petition.

On behalf of the State, it has been submitted that since the victim after ten days of her abduction was returned,

hence no offence under Section 302 IPC is made out but the petitioner is alleged to have committed rape upon the victim.

Considering the facts aforesaid, let above named petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri Vijay Bahadur Yadav, 6th Additional District and Sessions Judge, Banka in S.T.No. 370 of 2013 arising out of Belhar P.S.Case No.55 of 2012.

(Sudhir Singh, J)

singh/-

U		T	
---	--	---	--