

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43218 of 2014

Arising Out of PS.Case No. -23 Year- 2014 Thana -MANSAHI District- KATIHAR

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1. Md. Shamser, Son of Md. Jamal Miyan, Resident of Village - Bari
Bathana (Raiya Tola), Police Station - Mansahi, District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Advocate

For the Opposite Party/s : Mrs. Anita Kumari (APP)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 03-03-2015

This application is filed under Section 439 of the Code of Criminal Procedure with a prayer to grant bail to the petitioner. He is facing trial in respect of Mansahi P.S. Case No.23 of 2014 for the offences punishable under Section 376 of the Indian Penal Code. He was arrested on 26.08.2014. B.P. No.688 of 2014 was filed before the Court of 1st Additional Sessions Judge, Katihar and the same was dismissed on 16.09.2014. Hence, this application.

Heard learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

The petitioner has filed copies of the F.I.R. as well as the statement recorded under Section 164 of the Code of Criminal Procedure. This Court finds the following, *prima facie*, observations on perusal of the record.

The incident is said to have taken place firstly on 15.03.2013 and thereafter on 26.04.2013, whereas the complaint was submitted on 30th April, 2013. The statement under Section 164 of the Code of Criminal Procedure was recorded on 26.08.2014. There is inconsistency in between these two and in none of the statements referred to above, there is a specific allegation as to the commission of rape.

The matter needs to be examined in detail at the trial.

Hence, this application is allowed. The petitioner shall be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar, in connection with Mansahi P.S. Case No.23 of 2014, on a condition that the petitioner shall report to the concerned police station on the 2nd Sunday of every month between 10 A.M. and 11 A.M.

(L. Narasimha Reddy, CJ)

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