

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 9338 of 2015

Arising out of P.S.Case No.-48 Year-2013 Thana-NAUGACHIA District-BHAGALPUR

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Akhilesh Sah, Son of Mahabir Sah, Resident of Mohalla Mumtaj, Janak
Singh Road, Naugachiya, P.S. – Naugachiya, District Bhagalpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikram Singh, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 14-10-2015 Heard learned counsel for the petitioner and learned counsel for
the State.

The prayer for bail on behalf of the petitioner was earlier
rejected vide order dated 27.03.2014 passed in Cr. Misc. No. 37554 of
2013 on merits.

However, the fact of the case is peculiar. The petitioner is the
father of one Komal Kumari who has deposed against her father, i.e., the
petitioner and prosecution case is that she developed intimacy with the
deceased and indulged in sexual intercourse. When the father entered into
her room he found the deceased on the bed of her daughter and learnt
about the sexual intercourse.

Learned counsel for the petitioner submits that the situation was
as such that in the fit of moment the petitioner father had committed the
murder as he was not within his control and the question which arises is
that whether Section 302 of the Indian Penal Code will apply or not as the

occurrence took place in a fit of moment as it is but natural that when the father entered into the room and learnt about the sexual intercourse of his minor daughter with the deceased he lost his temper and was compelled in such a situation to do the act alleged. The petitioner has already remained in jail for about two years and six months.

Hence, having regard to the facts and circumstances of the case, the petitioner above named is ordered to 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 learned 2nd Additional Sessions Judge, Naugachia, Bhagalpur in connection with S.T. No. 748 of 2013 arising out of Naugachia P. S. Case No. 48 of 2013/G.R. No. 261 of 2013, subject to the condition that the petitioner will not influence the witnesses particularly her daughter either to win over or pressurize her for giving the evidence and any report in this connection shall be a ground for cancellation of bail bond of the petitioner and further the petitioner shall appear in the case on each and every date fixed by the court below and any absence of the petitioner shall be subject to the satisfaction of the court below on reasonable grounds and further the petitioner shall not remain absent on two consecutive dates.

(Gopal Prasad, J)

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