

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2857 of 2015

Arising Out of PS.Case No. -31 Year- 2007 Thana -AMARPUR District- BANKA

Ranjeet @ Brahmjeet Kumar @ Brahmjeet Singh

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee

For the Opposite Party/s : Mr. Akbar Ali (A.P.P.)

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 23-04-2015

Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor.

Victim/ complainant, Ranju Kumari filed complaint petition on 06.01.2007 for an occurrence dated 02.01.2007 disclosing therein that while she had gone to meet nature's call, she was waylaid by the petitioner along with Kailash Prasad Singh on the pretext of firearm and then, took her to the place of Kailash Pd. Singh, where petitioner is said to have raped. Subsequently thereof, she was released, when complained, others have threatened.

It has been submitted on behalf of petitioner that after concluding investigation, he has been exonerated by the police; however, differing there from, the learned lower Court took cognizance and summoned the petitioner, therefore, necessitate filing of instant petition. Furthermore, it has been submitted that own maternal grand father of victim whose statement is recorded under Para-18 of the case diary, had contradicted the allegation. It has also been submitted that police during course of investigation had perceived that prosecution party were putting pressure upon the petitioner to

marry with the victim and as petitioner declined, on account thereof, instant case has been filed. Therefore, it has been submitted that it happens to be a good case wherein petitioner should be released on an anticipatory bail.

Furthermore, it has also been submitted that statement of victim has not been recorded under Section 164 Cr.P.C. which, in the present nature of case happens to be necessary and that being so, there happens to be lapses on the part of the Investigating Officer which gives an additional ground to the petitioner.

On the other hand, learned Additional Public Prosecutor opposed the prayer.

Gone through the case diary. Presence of witnesses for an occurrence of rape is an exception and that happens to be reason behind that statement of the victim is to be perceived, more particularly in the background of Indian Culture whereunder virginity happens to be soul of a woman. Furthermore, it has been perceived that in Indian Culture the woman/girl is not at all reluctant to come forward in ordinary course of nature to complain with regard to rape.

Now, coming to the present case, it is evident that apart from complaint petition, the victim in her further statement recorded under Para-4 had specifically incorporated the act of rape at the hands of petitioner. Her statement is found corroborated with her family members recorded under Paragraphs-6, 7 and other paragraphs of the case diary. At the present moment, the medical report is also to be taken note of. In the complaint petition, she had disclosed herself to be a minor while as per radiological report, she has been found aged about 17 years. Furthermore, the medical report suggests that she happens to be habituated in sexual activity. Be that as

it may, even a prostitute cannot be enforced to indulge in sexual activity without her consent.

Though, petitioner was not sent for trial, but cognizance has been taken against him and further, is found supported with the statement of the victim.

On account thereof, I do not see it a fit case for grant of anticipatory bail. Accordingly, prayer of petitioner for anticipatory bail is rejected.

Vikash/-

(Aditya Kumar Trivedi, J)

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