

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4999 of 2015

Arising out of PS.Case No. -64 Year- 2011 Thana -HULASGANJ District- JEHANABAD

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Ashok Kumar @ Ashok Sharma @ Ashok Kumar Sharma, Son of Late
Rama Nand Sharma, resident of village - Hulasganj, P.S. Hulasganj, District
– Jehanabad.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate.

For the Opposite Party : Mr. Umesh Nand Pandit (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 23-06-2015 Heard both sides.

The petitioner apprehends his arrest in a case under
Section 376 of the Indian Penal Code.

The prosecutrix made allegation that on 29.08.2011
when she reached at the house of the petitioner to take a room on
rent the petitioner took her inside the house and committed rape
with her.

Sri A.K. Thakur, learned counsel for the petitioner
submits that the prosecutrix went to hospital immediately after the
occurrence but no body has supported the factum of occurrence.
Even during the course of investigation, none of the witness has
come forward. The clothes of the prosecutrix sent to F.S.L. but the



F.S.L. report does not show the positive finding of rape by the petitioner. The doctor also did not give any positive finding of the rape. It is further submitted that at the relevant time call detail of the telephone of the prosecutrix was taken and it shows different location of the prosecutrix. The police after investigation, submitted final form finding the case false but the learned court below took cognizance. It is submitted that the present case is filed at the instance of Kamlesh Sharma with whom the prosecutrix had developed illicit relation. The petitioner has already been enlarged on bail in a case lodged by the father of the prosecutrix for her kidnapping vide order dated 02.12.2014 passed in Cr. Misc. No. 41568 of 2014.

On the other hand, learned counsel for the informant as well as learned Additional Public Prosecutor vehemently opposed the prayer for anticipatory bail and submitted that the prosecutrix immediately after the occurrence ran to the hospital. The witnesses have seen her clothes torn. The doctor Sri Birendra Prasad Singh disclosed that the prosecutrix narrated her story. The prosecutrix was examined and injuries were found on her person. Semen was also found on the clothes of the prosecutrix. The prosecutrix was examined at 4.00 P.M. but the doctor has given report that the rape on the prosecutrix can not be ruled out only because in

pathological examination no spermatozoon was found, even the F.S.L. report shows the presence of semen but the investigating officer in collusion with the petitioner sent the clothes to the F.S.L. and also brought the F.S.L. after much delay. The Dy. S.P. in paragraph no. 83 of the case diary found the case true under Section 376 of the I.P.C. against the petitioner. Hence, the petitioner does not deserve anticipatory bail.

It appears that the prosecutrix had made very specific allegation that the petitioner committed rape with her. The prosecutrix went to hospital and some witnesses have supported about her condition. Some injuries were also found on the person of the prosecutrix. Semen was also found on the garments of the prosecutrix.

Considering the facts aforesaid, I do not feel inclined to grant anticipatory bail to the petitioner. Accordingly, the same is rejected in connection with Hulasganj P.S. Case No. 64 of 2011, pending in the court of the learned C.J.M., Jehanabad.

U.K./-

(Prabhat Kumar Jha, J)

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