

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32998 of 2015

Arising Out of PS.Case No. -16 Year- 2015 Thana -MAHILA P.S. District- SAMASTIPUR

Shivesh Kumar Son of Shree Shivchandra Ram, Resident of Village -
Jitwariya, P.S. - Kalyanpur, District - Samastipur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Kumar Mishra

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

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 21-08-2015 Heard learned counsel for the petitioner and
learned counsel for the State.

The petitioner apprehends his arrest in connection
with Samastipur Mahila P.S. Case No. 16 of 2015 registered for
the offences punishable under Sections 376 and 120B of the
Indian Penal Code.

Learned counsel for the petitioner submits that
the occurrence, if at all, made out against the petitioner cannot
be sustained in law, as it was the girl herself who had given
consent for the act which was continued for long length of time.
Learned counsel for the petitioner has strenuously urged that
in view of the consent given by the victim girl and the medical
report which does not reflect sign of rape on the victim girl, the
offence under Section 376 is not made out against the
petitioner. Learned counsel for the petitioner has also drawn
my attention to the judgment reported in AIR 1982 SC 1927

which states that the age of the girl can be determined on the basis of the report of the doctor ascertained through radiological examination and the margin of error in assessing the age could be two years on either side.

After perusing the materials available on record and the argument advanced on behalf of the learned counsel for the petitioner, I am not inclined to grant anticipatory bail to the petitioner. It is, accordingly, rejected.

(Anjana Mishra, J)

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