

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38217 of 2015

Arising Out of PS.Case No. -623 Year- 2013 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Md. Aslam son of Shok Fazural Rahman, resident of village Khutia, P.S.
Bayasi, District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Jahidi Khatoon daughter of Md. Zafar, resident of Khutia, P.S. Bayasi,
District Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan

For the Opposite Party/s : Mr. Anil Pd.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 22-09-2015

Heard learned counsels for the petitioner,

State and the complainant.

The petitioner is apprehending his arrest in
a complaint case wherein processes have been directed to be
issued after cognizance being taken for the offences punishable
under Sections 376, 313, 506 and 323 of the Indian Penal Code.

The prosecution case is that the
complainant used to work as a domestic help in the house of the
petitioner when the petitioner established physical relationship
with the complainant. Subsequently, the complainant got
pregnant but the petitioner agreed to marry with the complainant
if the pregnancy is to be terminated and consequently the

petitioner gave some medicine which caused termination of pregnancy and thereafter the petitioner refused to marry.

It is submitted by learned counsel for the petitioner that initially after examining the complainant on S.A. and the enquiry witnesses processes were issued after cognizance being taken under Sections 323 and 506 of the IPC vide order dated 24.01.2014 passed by learned Judicial Magistrate, Ist Class, Purnea but the said order was challenged in revision and in pursuance to the revisional order fresh cognizance order was passed without any further enquiry under Section 202 of the Cr.P.C. It is further submitted that even assuming the accusation no offence under Section 376 IPC is made out as the petitioner alleged to have established physical relationship with consent. The majority of the complainant is not in dispute. Moreover, there is nothing on record to suggest that pregnancy was terminated. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

It is submitted by learned counsel for the complainant that the petitioner got the pregnancy terminated on promise of marriage but subsequently refused to marry.

It appears that there is nothing on record to

suggest that the pregnancy was terminated rather the initial order of learned Magistrate dated 24.01.2014 reflects that the medical examination of the complainant was done on 18.03.2013 when no sign of any injury or rape was found.

Considering the aforesaid facts, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Purnea in connection with Complaint Case No. 623 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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