

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36106 of 2015

Arising Out of PS.Case No. -49 Year- 2015 Thana -FALKA District- KATIHAR

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1. Shailendra Kumar Mandal @ Shailandra Kumar Mandal Son of Murli Mandal resident of village - Malhariya, Police Station - Falka (Pothiya), District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Mr. Ashok Kumar Singh-1(App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

3 30-11-2015 Heard learned counsel for the petitioner and learned A.P.P. representing the State.

The petitioner seeks bail in connection with Falka (Pothiya) P.S. Case No. 49 of 2015 registered for the offences punishable under Sections 376 and 504 of the Indian Penal Code.

Allegedly in absence of the husband of the informant, the petitioner after entering into the house of the informant, committed rape with her and thereafter due to alarm being raised, the petitioner started fleeing away and was seen by the *Gotni* of the informant.

Submission is of false implication due to land dispute. F.I.R. has been lodged after much delay. Medical evidence does

not support the allegation of rape and further independent witnesses vide para 55 and 56 of the case diary have also stated regarding innocence of the petitioner and further the informant before Surpanch has denied the allegation of rape and videography was also done. The petitioner has voluntarily surrendered in the court below on 07.04.2014 and since then, he is suffering in custody. There is no chance of tampering with the prosecution evidence as trial is going on.

The learned A.P.P. opposes the prayer of bail but fairly submits that independent witnesses have not supported the prosecution version.

In the facts and circumstances stated above, considering that the F.I.R. has been lodged after much delay and medical evidence does not support the prosecution version and further independent witnesses namely, Basant Mandal and Rajesh Kumar Mandal have also not supported the prosecution version and have stated regarding the innocence of the petitioner and, as such, the petitioner above named is directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Learned Chief Judicial Magistrate, Katihar arising out of Falka (Pothiya) P.S. Case No. 49 of 2015 subject to the conditions that one of the

bailors must be near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

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(Jitendra Mohan Sharma, J)