

Arising Out of PS.Case No. -28 Year- 2009 Thana –DHORAIYA District- BANKA

.... Petitioner/s

1. The State of Bihar
2. Ashok Prasad Rai, Son of Late Sarveshwar Prasad Rai.
3. Soni Kumari, Wife of Pankaj Kumar Kesari, Daughter of Ashok Prasad Rai.

Both are resident of Village- Ranjodha, P.S. Dhoraiya, District- Banka.

.... Opposite Party/s

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

ORAL ORDER

The petitioner seeks bail in Dhoraiya (Dhankund) P.S. Case No. 28 of 2009 dated 05.04.2009 instituted under Section 366A of the Indian Penal Code.

Learned counsel for the petitioner submits that in the statement of the victim girl (opposite party no. 3) recorded before the Court under Section 164 of the Code of

Criminal Procedure, 1973 she has stated that she had married the petitioner, after Rupesh had taken her and left her with the petitioner, willingly and wanted to live with him. Learned counsel for the petitioner submits that in view of the aforesaid, there is no allegation against the petitioner and thus he deserves to be released on bail.

Initially, the Court had prima facie found substance in the submissions of learned counsel for the petitioner and after impleading the informant and his daughter (victim girl), notices were issued to them and the petitioner was granted provisional bail by order dated 02.09.2014. Pursuant to the same, the opposite party no. 3 had come before the Court and had stated that initially after marrying the petitioner she had cohabited with him but was never taken by the petitioner to his native place and kept at various places in the house of his relatives. She had also stated that lastly in the year 2012 at Bhagalpur, she was ousted from the house where she was living by the first wife and then only she came to know that the petitioner was already married from before and had six children. She had stated that she was cheated by the petitioner who misrepresented that he was unmarried. She also informed the Court that she has a daughter aged about two and a half years from her marriage to the petitioner and is presently living with her father without any support from the petitioner. As learned counsel for the petitioner had expressed

his ignorance with regard to the said fact, a short adjournment was granted for filing affidavit on the point as to whether he is married and having six children. On the next day i.e., 19.08.2015, the same was not done and the case was adjourned for today. The petitioner is present in Court and accepts that he is married from before.

Learned counsel for the opposite parties no. 2 and 3 submits that during trial the girl has clearly stated that though initially she had married the petitioner willingly but only due to misrepresentation by him that he was unmarried and even when she was ousted from the house at Bhagalpur by the first wife, the petitioner neither intervened nor supported nor took care of her and her daughter. He also submits that the statement under Section 164 was recorded in the year 2009 i.e., prior to the ouster from the house at Bhagalpur, which took place in the year 2012.

Upon considering the facts and circumstances of the case and hearing learned counsel for the parties, this Court prima facie finds that there is sufficient material against the petitioner for having misrepresented to the daughter of the informant that he was unmarried and also begetting a child from her inspite of the fact that he had a living wife and six children from the first marriage. His conduct even thereafter of not taking care or protecting the petitioner and her daughter is indicative of his mala fide and unclean intention.

For the reasons aforesaid, this Court is not inclined to enlarge the petitioner on bail.

Accordingly, the application stands dismissed.

The petitioner, who is on provisional bail, shall surrender before the Court below latest by 31st August, 2015. If the same is not done, the Court below is directed to take appropriate steps to ensure that the petitioner is taken into custody. If required by the Court, the Superintendent of Police, Banka shall ensure that the petitioner is taken into custody and produced before the Court.

The order be communicated to the Court below as well as the Superintendent of Police, Banka by Fax also by the Registry latest by tomorrow.

(Ahsanuddin Amanullah, J.)

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