

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12407 of 2015

Arising Out of PS.Case No. -32 Year- 2014 Thana -MAHILA PS District- KATIHAR

Manoj Yadav son of Jagdish Yadav resident of Village : Mohanpur, Police
Station: Mansahi, District : Katihar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL
ORAL ORDER

4 20-07-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks bail in a case for the offence punishable under Sections 376, 225, 504/34 of the Indian Penal Code.

The allegation against the petitioner is to have entered into the house of the prosecutrix and committed rape upon her. She raised alarm and the neighbours came there. The petitioner was apprehended on the spot. He was taken to the Sarpanch by some other persons on the pretext of Panchyati but no Panchyati was held. Thereafter, the case has been lodged.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case due to land dispute. The occurrence has taken place on 10.8.2014 whereas the case has been lodged on 18.8.2014 and there is no explanation for such delay. He has further submitted that the prosecutrix has made contradictory statement under Section 164 of the Code of Criminal Procedure and it appears that only attempt was made for committing rape. The doctor has not found any sign of rape.

Learned counsel for the State submits that there is specific allegation of overt act against the petitioner. The allegation is that the petitioner entered into the house and committed rape upon the prosecutrix. The victim in her statement under Section 164 of the Code of Criminal Procedure has also stated that the petitioner committed rape upon her. The petitioner was apprehended on the spot and he was taken to the Sarpanch by some villagers but no Panchyati was held. The case has been lodged thereafter and this is the cause of delay in lodging the case. The medical examination was held after ten days and, as such, the doctor did not find any spermatozoa or any sign of rape. After investigation the case has been found true.

Considering the facts and circumstances, in my opinion, the petitioner does not deserve bail. His prayer for bail is rejected at this stage.

Let the trial of the petitioner in Mahila P.S. Case no. 32 of 2014 be expedited.

(Amaresh Kumar Lal, J)

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