

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16765 of 2014

Arising Out of PS.Case No. -1370 Year- 2009 Thana -PATNA COMPLAINT CASE District-
PATNA

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Shailesh Sharma S/o Late Sheo Dutta Sharma Resident of Village - Keyal,
P.S. - Karpi, District - Arwal

.... Petitioner/s

Versus

1. The State of Bihar
2. Siya Janki Devi, W/o Late Dinesh Kr. Gupta, resident of Jhoparpatti, JD
Womens' College (West Side) PS Shastrinagar, Dist. Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar
For the Opposite Party/s : Mr. Md. Arif, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

4 02-07-2015

This application under Section 438 CrPC is filed with a prayer for grant of anticipatory bail to the petitioner who is apprehending his arrest in Complaint Case No. 1370 (C)/2009 for offence punishable under Section 376, CrPC pending in the court of Sri Hari Prasad, Judicial Magistrate, 1st Class, Patna.

The complaint was submitted by a lady, by name Siya Janki Devi, before the Chief Judicial Magistrate, Patna stating that she was engaged as domestic maid in the house of one Rakesh Sharma at Patna in the month of April, 2009, on account of death of her husband and poverty. On 15.5.2009, Rakesh Sharma with his wife and children are said to have gone out. The petitioner is the brother of Rakesh Sharma. The complainant stated that she prepared and served food to the petitioner at 9.30 PM on 15.5.2009 and slept in her room. The petitioner went to her room

at 10.30 PM and committed rape thrice.

The trial court took cognizance of the same on 12.8.2009. The petitioner earlier filed Criminal Writ Petition with a prayer to direct the Police to locate the complainant. That writ petition was withdrawn.

The petitioner filed ABA No. 6460 of 2013 before the court of learned Sessions Judge, Patna, under Section 438 CrPC. The same was dismissed on 23.12.2013. Thereafter he has filed the present petition.

Heard learned counsel for the petitioner and the learned Addl. Public Prosecutor.

The sole contention advanced on behalf of the petitioner is to the effect that the complainant was non-existent and that the complaint was filed by the wife of the petitioner. Reference is also made to certain complaints filed against the petitioner under various provisions of law by his wife and the various orders passed by this Court and other courts.

This Court is not at all impressed by the arguments advanced by the petitioner. The offence is serious in nature and the truth or otherwise of the allegation made therein need to be considered only in trial. The petitioner cannot be granted anticipatory bail in a serious offence like the one punishable under Section 376 IPC.

This application is accordingly dismissed.

(L. Narasimha Reddy,CJ)

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