

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7908 of 2015

Arising Out of PS.Case No. -58 Year- 2014 Thana -MAHILA P.S. District- BANKA

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1. Motilal Sah Son of Sri Makdum Sah@ Magdoo Sah Village-
Tinnunda, Police Station- Fulliduar, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Nurul Hoda, Advocate

For the Opposite Party/s : Mr. Pradip Nr. Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

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30-04-2015

Heard learned counsel for the petitioner as well as

learned APP assisted by learned counsel for the informant.

Puja, the alleged victim filed a complaint petition alleging *inter alia* that she was kidnapped on 06.07.2014 by the petitioner along with others, taken to different places, lastly to Kolkata and during intervening period, she was raped. Anyhow, she escaped from the clutches of petitioner and then the instant case has been registered.

Contention on behalf of petitioner is that the victim happens to be major one. During course of transit, as alleged, she never raised objection which shows that she was a consenting party. It has also been submitted that majority of the victim is itself apparent from the medical examination, para-45 of the case diary.

It has further been submitted that victim happens to be a married one and her husband, on account of her dubious character, had filed a complaint case bearing no. 1271/2014

against the victim and others (Annexure-3). Furthermore, it has been submitted that petitioner had also filed informatory petition no. 1548/2014 against the victim lady and others (Annexure-4). It has also been submitted that during course of investigation, an application was made before the Superintendent of Police, Banka whereupon a separate enquiry was conducted which nullified the allegation (Annexure-5).

In the aforesaid background, it has been submitted that it is a fit case for anticipatory bail.

Annexure-3 and 4 are the documents prepared subsequently to filing of complaint petition by the victim. Furthermore, from Annexure-4, informatory petition, more particularly, para-2 thereof, is the theme which speaks otherwise. With regard to Annexure-5, when investigation was already going on, then was it permissible at the end of Superintendent of Police to have a separate enquiry conducted and, if so, under what provision of law the same happens to be permissible.

For the present, there happens to be specific allegation of rape against the petitioner and that being so, I do not see it a fit case for anticipatory bail. Hence the same is rejected.

(Aditya Kumar Trivedi, J)

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