

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.907 of 2014

Arising Out of PS.Case No. -314 Year- 2011 Thana –Mahalgaon (Joki Hat) District- ARRARIA

Darkhshan @ Bibi Darkhshan, Daughter of Md. Dawood, resident of village Masuria, P.S. Mahalgaon, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police (D.G.P), Patna Bihar
2. The Superintendent of Police (S.P. Araria, District- Araria)
3. The Deputy Superintendent of Police, Araria, District- Araria
4. The Officer-in-Charge, P.S. Mahalgaon, District- Araria
5. Md. Shahanshah @ Md. Shahadat Anwar, son of Md. Riyazuddin @ Md. Riyaz, resident of village Masuria, P.S. Mahalgaon, District- Araria.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Adv.

For the Respondent/s : Mr. Md. Faiz Ahmad, A.C. to GP-7

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 25-03-2015

The petitioner is informant of Mahalgaon (Joki Hat)

P.S.Case No.314 of 2011 registered under section 376 of the Indian Penal Code.

By filing this application under Articles 226 and 227 of the Constitution of India, he seeks a mandamus to be issued to respondent nos.2 to 4 to arrest respondent no.5, namely, Md. Shahanshah @ Md. Shahadat Anwar because he is named accused in a case of rape. On enquiry, learned counsel for the petitioner has submitted that the case is still under investigation.

In course of investigation, though the police have power to arrest an accused under section 41 of the Code of Criminal

Procedure, but such power has to be exercised with care and caution. The police are not expected to act mechanically in each and every case and arrest the accused immediately after institution of the First Information Report. The issue of arrest depends on several factors, which are unfurled in course of investigation. At the stage of investigation, the Court has no role to play.

In that view of the matter, I find no merit in the application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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