

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14525 of 2016

Arising Out of PS.Case No. -56 Year- 2015 Thana -MAHILA P.S. District- BANKA

1. Md. Kainul Son of Md. Wahid resident of village- Muslim Tola, Katiyama, P.S.- Rajoun, District- Banka

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Nandad Prasad

For the Opposite Party/s : Mr. A.M.P.Mehta(App)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 28-04-2016 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Banka (Mahila) P.S.Case No. 56/2015 for offences alleged under Sections 376 (2) (1)/ 506 of the Indian Penal Code and 4 and 6 of the POSCO Act.

The prosecution case as lodged by the informant, Bibi Sabani, wife of Md. Sahbaj is that on 07.12. 2015 at about 6.30 P.M. the petitioner came for milking the cow and her daughter Tarannum Khatoon, aged about 8 years was on cot and the petitioner closed the door of house and forcefully committed rape. On hulla of her daughter the informant came and open the door then Md. Kainul fled away. On the basis of the written report an

F.I.R. was lodged against the petitioner in Banka (Mahila) P.S.No. 56/2016 on 08.12.2015 and the case was registered under Section 376 (2) (i) of the I.P.C. and 4 and 6 of the POSCO Act.

It has been submitted by the learned counsel for the petitioner that he is innocent and has been falsely implicated in the aforesaid case. He further submits that the informant has not seen the occurrence and even the victim under Section 164 of the Cr. P.C. has given her statement that the petitioner had not committed rape upon her.

However, learned A.P.P. for the State submits that the age of the victim has been recorded as 8 but although in her statement under Section 164 Cr. P.C. shows the complicity of the petitioner in the alleged offence.

Under such circumstances, from perusing the statement of the victim girl under section 164 of the Cr. P.C. and the allegation as made out against the petitioner in the F.I.R.. I am not inclined to grant the privilege of anticipatory bail to the petitioner.

(Nilu Agrawal, J)

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