

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34669 of 2016

Arising Out of PS.Case No. -139 Year- 2014 Thana -KATIHAR MUFFASIL District- KATIHAR

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Biplav Singh S/o Late Chhedi Prasad Singh R/O-Professor Colony, Durga
Asthana,P.S-Katihar Town, Dist-Katihar

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh

For the Opposite Party/s : Mr. Smt. Pronati Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 19-09-2016

Heard Sri Rajendra Narain, learned Senior Counsel,

who was assisted by Sri Sanjeev Kumar Singh, learned counsel for
the petitioner, Smt. Pronati Singh, learned Addl. Public Prosecutor
as well as Sri Y.C.Verma, learned Senior Counsel, who was
assisted by Sri Anuj Kumar, learned counsel for the informant.

The sole petitioner, apprehending his arrest in
Katihar Muffasil P.S. Case No.139/2014 registered for the offence
under Sections 147, 149, 323, 379, 307, 376, 489 of the Indian
Penal Code and Section 27 of the Arms Act, has prayed for grant
of bail, in the event of his arrest or surrender.

It was submitted by learned Senior Counsel
appearing on behalf of the petitioner that in this case initially, the
informant had filed a complaint, which was registered vide



Complaint Case No. 2590 of 2014 arraying six persons as accused. In the complaint petition, she disclosed that she was raped by accused nos. 1 and 6. So far as petitioner and others are concerned, it was alleged that they surrounded her having deadly weapons. Learned counsel for the petitioner, by way of referring to the statement made in the complaint petition, submits that the complainant herself had disclosed that she was literate lady, even then in such situation, instead of directly approaching the police, she had filed a complaint on 13.10.2014 on allegation of rape, which was allegedly committed on 07.10.2014. However, on the same day the complaint was referred to the police for its registration of F.I.R. and investigation under Section 156(3) of the Code of Criminal Procedure and, thereafter, the present F.I.R. was lodged on 07.12.2014.

In this case by filing a supplementary affidavit, it has been stated that the complainant/informant is in habit of filing frivolous criminal cases. By way of referring to Annexure-1 to the supplementary affidavit filed on behalf of the petitioner, which was filed on 2nd September, 2016, it was submitted by learned counsel for the petitioner that earlier also the informant/complainant of the present case had filed a complaint petition vide Complaint Case No. 1890/2013, in which the



petitioner was arrayed as accused no.7. In the said complaint case also, the allegation was made by the complainant regarding commission of rape and the case was registered for the offence under Section 323, 354, 380, 384, 376 of the Indian Penal Code. Besides the complaint Case No.1890/2013, the complainant/informant of the present case earlier had filed number of cases. It has categorically been argued that in view of facts disclosed in the supplementary affidavit, it is evident that the complainant/informant of the present case is habitual in filing frivolous cases. Even in the case, which was initiated as C.R. No.1429/99/T.R.757/2009, filed by the complainant of the present case, there was an acquittal order, which has been brought on record as Annexure-2 to the supplementary affidavit. He further submits that even on going through the entire complaint petition, the allegation appears to be doubtful and even no allegation has been made against the petitioner regarding commission of rape.

Learned Addl. Public Prosecutor and Sri Y.C. Verma, learned Senior Counsel appearing on behalf of the informant have vehemently opposed the prayer for grant of anticipatory bail. It was submitted by Sri Verma, learned Senior Counsel that the petitioner is running a gang of fake currency and as per complaint petition, it is evident that all the accused persons

made pressure to the complaint to join their work and on refusal she was raped.

Besides hearing learned counsel for the parties, I have also perused the materials on record. On going through the complaint petition, it is evident that the complainant herself had disclosed that she was a literate lady. If she was a literate lady and she was raped, in normal course she immediately would have rushed to the police Station for lodging an F.I.R. and in case of refusal, she ought to have approached the concerned Superintendent of Police, which she had not done and at belated stage, she filed a complaint case. Even in the complaint case, nothing has been alleged regarding commission of offence under Section 376 of the Indian Penal Code against the petitioner. Besides this, on the basis of facts disclosed in the supplementary affidavit, it appears that the complainant herself is in habit of filing of cases.

In the facts and circumstances, the Court is of the opinion that it is a fit case for grant of anticipatory bail. Accordingly, let the petitioner, namely, Biplav Singh, in the event of his arrest or surrender within six weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned

Chief Judicial Magistrate, Katihar in connection with Katihar Muffasil P.S. Case No. 139/2014, subject to conditions as laid down in Section 438(2) of the Code of Criminal Procedure.

It goes without saying that whatever observation has been recorded by this Court in the present case, same has been record only and only for the purposes for grant of anticipatory bail. Any of the observation may not be taken note at subsequent stage.

(Rakesh Kumar, J)

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