

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50213 of 2016

Arising Out of PS.Case No. -68 Year- 2016 Thana -MAHILA PS District- KATIHAR

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Shamsher Alam, Son of Late Nasiruddin, resident of village - Kalyangaon,
P.S. Telta, P.O. Balrampur, District Katihar.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajit Kumar Singh, Advocate.

For the Opposite Party : Mr. Anish Chandra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 22-12-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is apprehending his arrest in connection
with Mahila P.S. Case No. 68 of 2016 for the offences instituted
under Sections 376 of the IPC and 4 of the POCSO Act.

The prosecution story, in brief, is that the petitioner
repeatedly committed rape upon the informant without her consent
on pretext of performing marriage with her. But subsequently, he
refused to marry with her.

It has been submitted on behalf of the petitioner that the
petitioner has got no criminal antecedent. There is no allegation of
tampering with the witnesses alleged against the petitioner. He has
falsely been implicated in the present case. The medical



examination report does not support the allegations made in the FIR. FIR has been instituted after six months from the alleged date of occurrence. The delay has not been explained on behalf of the prosecution. Annexure-3 is the *Panchnama* which also does not support the accusation made against the petitioner. Paragraph nos. 10 and 11 of the case diary also do not support the allegation made in the FIR.

On behalf of the State, it has been submitted that the petitioner is named in the F.I.R. There is specific allegation against him. The victim in her 164 Cr. P.C. statement has also named the petitioner.

Considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected in connection with Mahila P.S. Case No. 68 of 2016, pending in the court of learned C.J.M. Katihar. If the petitioner surrenders in the court below, the same shall be considered on its own merit without being prejudiced by the order of this Court taking into account the submissions made on behalf of learned counsel for the petitioner.

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(Sudhir Singh, J)