

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54732 of 2015

Arising Out of PS.Case No. -52 Year- 2014 Thana –BAGHA MAHILA P.S District-
WESTCHAMPARAN(BETTIAH)

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Dasrath Yadav, Son of late Kishore Yadav, Resident of Village- Naraipur,
P.S- Bagaha, (Patkhauri) District West Champaran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Prithvi Nath Mishra, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar (App)

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 19-04-2016 Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in a case registered for the offence punishable under Section 376 of the Indian Penal Code.

As per the allegation, the informant had given consent for sexual intercourse on the promise given by the petitioner that he would marry her but, thereafter, he did not marry, therefore, the present case has been lodged.

It is contended on behalf of the petitioner that if consent for sexual intercourse on promise having been made for marriage that would not amount to rape. Learned counsel places reliance upon a decision of the Apex Court in Uday Vs. State of Karnataka [(2003) 4 SCC 46] wherein observation has been made that where

the prosecutrix had sufficient intelligence to understand the significance and moral quality of the act and as she was consenting openly that would not amount to rape and, thus, Section 376 would not be attracted as false promise is not a fact within the meaning of Penal Code.

Having regard to the facts and circumstances of the case, let the petitioner, namely, Dasrath Yadav be released on bail in the event of his arrest/surrender before the court below within a period of six weeks from today in connection with Bagaha P.S. Case No.52/2014, on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Bagaha, West Champaran subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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