

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19737 of 2016

Arising Out of PS.Case No. -118 Year- 2015 Thana -PARIHAR District- SITAMARHI

1. Md. Arman S/o Abdul Rahim R/o village - Sutihar (Muslim Tola) P.S. Parihar, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

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

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 04-05-2016

Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Parihar P.S.Case No. 118/2015 registered for offences punishable under Sections 376 and 506 of the Indian Penal Code.

The petitioner had earlier moved an anticipatory bail application before this Court in Cr. Misc. No. 44276/2015 wherein the petitioner had stated that he had a clean antecedent but the informant, who appeared and filed a counter affidavit stating therein that there was some cases pending against the petitioner. Hence, the said case was disposed on 26.02.2016 and liberty was given to the petitioner to apply for bail before the learned District & Sessions Judge, Sitamarhi, who will consider the said

application on its own merit.

Learned counsel for the petitioner submits that on 07.04.2016 the learned Sessions Judge, Sitamarhi has rejected his anticipatory bail application but the earlier cases and its implications in the present case has not been taken note of.

The prosecution case has been lodged on the basis of written application of one Farzana Khatoon before the police on 03.07.2015 alleging that she is 20 years old and on the pretext of marriage the petitioner established physical relationship with the informant since last 19 months but ultimately upon insisting to marry, he refused to marry her and panchayat had been called but he refused to participate in the panchayat.

Learned counsel for the petitioner has submitted that altogether four cases have been lodged against him. In Parihar P.S.Case No. 06/2008 he has been acquitted by learned Sessions Judge, Sitamarhi on 19.02.2014. In Sursand P.S.Case No. 12/2008 the petitioner has been enlarged on bail and a joint compromise petition has been filed by the parties. Parihar P.S.Case No. 83/2014 had been lodged by Gotiya of the informant, Sahnaz Khatoon, W/O Sabir in retaliation to Parihar P.S.Case No. 86/2014 lodged by the brother of the petitioner wherein the husband of the said Sahnaz Khatoon has brutally assaulted the brother of the



petitioner and his associates and the case has been found true and charge sheet has been submitted against them. He further submits that Parihar P.S.CASE No. 24/2007 has also lodged by the family member of the informant. Learned counsel for the petitioner further submits that all these cases have been lodged by the family members or Gotiya of the informant stating therein that the petitioner and informant side are on inimical terms with each other for which the petitioner had also filed before the learned Chief Judicial Magistrate, Sitmarhi an Informatory petition on 27.06.2015 stating therein that he apprehends that the informants' side will implicate him in a false case or kill him.

Learned counsel for the petitioner submits that all these facts have not been taken into consideration by the learned Court below despite specific direction while disposing of the earlier anticipatory bail application on merit.

Learned counsel for the petitioner further submits that all these cases against the petitioner show inimical terms of the informant's side with the petitioner's side. He further submits that the victim girl is a major and Section 376 is not applicable.

Learned counsel for the petitioner submits that even the medical report dated 03.07.2015 suggests the age of the victim girl to be between 19 to 21 years and it has been opined by the

doctor that it was difficult to assess whether the rape have been committed or not.

However, learned A.P.P. for the State submits that the petitioner is named in the First Information Report, hence, opposes the prayer for anticipatory bail.

Considering the facts and circumstances let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand only) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Parihar P.S.Case No. 118/2015, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J)

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