

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15771 of 2016

Arising Out of PS.Case No. -220 Year- 2015 Thana -LALIT NARAYAN UNIVERSITY District-
DARBHANGA

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Babloo Kumar Paswan @ Bablu Kumar Paswan @ Babloo Paswan son of
Rajdeo Paswan Resident of Village – Mohalla - Chunna Bhatti, P.S-
L.N.M.U., District - Darbhanga

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali, Advocate

For the Opposite Party/s : Mr. Binod Kumar 3 (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 18-05-2016 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

Petitioner apprehends his arrest in connection with

L.N.M.U. P.S. Case No. 220 of 2015 registered for the offences

punishable under Section 376 and other allied sections of the

Indian Penal Code.

The prosecution case, in brief, is that the informant,

who is a widow and working in an NGO, during her journey to

Madhubani met with the petitioner at railway platform and

thereafter they got themselves close to each other. Petitioner

thereafter took the informant from Madhubani to a lodge at

Darbhanga and committed rape upon her on the pretext to marry

her, but later refused.

It has been submitted by the counsel for the petitioner that that petitioner is innocent and has been falsely implicated in the aforesaid case. He bears no criminal history, as is evident from paragraph-3 of this application and that no case under Section 376 of the Indian Penal Code is made out because petitioner established physical relation with the informant with her consent and the present case has been filed due to misconception of facts. He further submits that the informant is a widow and mother of three children whereas petitioner is a student. He further submits that in view of the judgment in the case of **Deelip Singh @ Dilip Kumar Vrs. State of Bihar**, since reported in **(2005) 1 Supreme Court Cases 88**, Section 376 of the Indian Penal Code is not attracted, as the alleged offence was not without consent. He further relies on the judgment of the Apex Court in the case of **Abhoy Pradhan Vrs. State of West Bengal**, since reported in **1999 Cri.L.J. 3534** on the similar proposition. He further submits that the petitioner has been chargesheeted on 29.09.2015 under Sections 493, 341, 323 and 504 of the Indian Penal Code only.

However, learned A.P.P. for the State submits that the petitioner lured the informant for marriage and committed the offence, hence, opposes the prayer for bail.

Be that as it may, in view of the judgment of the Apex Court referred to above and that charge-sheet has not been submitted under Section 376 of the Indian Penal Code, 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, Darbhanga in connection with L.N.M.U. P.S. Case No. 220 of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J.)

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