

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39826 of 2016

Arising Out of PS.Case No. -99 Year- 2016 Thana -BANKA District- BANKA

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Sah Alam @ Bablu son of Md. Fazal Mahmood, resident of Village-Singarpur, P.S. Dhuraiya, District- Banka.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Brij Nandad Prasad, Advocate.

For the Opposite Party/s : Mr. Braj Kishore Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 05-12-2016 Heard both sides.

The petitioner seeks bail in Banka (Barahat) P.S.

Case No. 99/2016 registered under Sections 363 and 364 of the Indian Penal Code.

The father of the victim lodged a case against unknown for kidnapping of his daughter. The informant disclosed that he was informed by the staff of Anathalaya that his daughter was sitting there. The informant went there and brought his daughter and thereafter the present case was lodged on 20.02.2016. Learned counsel for the petitioner submits that the victim made her statement under Section 164 of the Code of Criminal Procedure and she alleged that one Kalim got her identified and Bablu (the petitioner) assaulted her with fists and slaps and forcibly got her seated in a Maruti car where other



accused persons assaulted her. The police also enquired from her but she could not remember anything. Only thereafter the police sent her to Anathalaya. It is further submitted that from the statement of the victim itself it appears that the wife of Faizul was contesting the election and she did not vote for her, that is why, Faizul had threatened her.

On the other hand, learned counsel for the informant and learned A.P.P. have vehemently opposed the prayer for bail and submitted that the police did not investigate the case properly. Thereafter, the informant filed a Criminal Writ and in pursuance of the order passed in the Criminal Writ, the police took the statement of the victim in which the victim disclosed that she was gang raped. Blood stained clothe was also produced.

From the facts of the case, it appears that the victim was gang raped on 12.02.2016. Her father got information on 13.02.2016 itself that his daughter was sitting in the Anathalaya. The informant brought his daughter to his own house but, on the request of the villagers, he lodged the case in the police station after a week of the occurrence on 20.02.2016. The victim made her statement under Section 164 of the Code of Criminal Procedure only on 24.02.2016. The victim did not whisper even a single word about the ill-treatment or rape by any of the accused



persons. Thereafter, further investigation was done and the victim is said to have alleged that she was raped by the accused persons. The only allegation against the petitioner is that the petitioner assaulted her and got her seated in the Maruti car.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on bail in Banka (Barahat) P.S. Case No. 99/2016. Accordingly, the same is rejected.

The petitioner may renew his prayer for bail after remaining nine months in custody.

(Prabhat Kumar Jha, J)

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