

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51930 of 2015

Arising Out of PS.Case No. -155 Year- 2015 Thana -BHARGAWAN District- ARRARIA

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1. Prakash Kumar Srivastav @ Prakash Shrivastava son of Ajit Srivastav
 2. Sona Devi, wife of Ajit Srivastav
 3. Ajit Srivastav @ Ajit Kumar Srivastav, son of Devendra Prasad Srivastav
 4. Prasant Kumar Srivastav @ Prasant Shrivastava, son of Ajit Srivastav
 5. Shilpi Srivastav @ Shilpi Kumari daughter of Ajit Srivastav
- All residents of village- Paikpar, P.S.- Bhargama, District- Araria

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sharma
For the Opposite Party/s : Mr. S.N.Shukla(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 15-02-2016 Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.

The petitioners are apprehending their arrest in connection with Bhargama P.S. Case No. 155 of 2015 registered for offences punishable under Sections 341, 323, 324, 379, 376 and 504/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that though the sole allegation is against the petitioner no. 1, the other petitioners have been roped in the present case on account of existing land dispute between the petitioners and informant. He further submits that the allegation of rape is far fetched so far as



petitioner no. 1, is concerned because on the alleged date of occurrence i.e. 25.07.2015, he had gone to appear in an examination at Bhagalpur which is at some distance from the place of occurrence i.e. Araria. He further submits that petitioner not only appeared in the examination but he also qualified in the said examination, which is evident from the supplementary affidavit and the result sheet appended thereto. He further submits that prior to the lodging of the present case, there was a case filed by the petitioner side and there was also a Punchnama executed between the parties, which was dishonoured by both the sides. Since the informant had been nursing a bitter feeling against the petitioner and his family, they have been roped in and mischievous allegations have been made against the entire family.

Learned counsel appearing on behalf of the informant, however, submits that enmity cuts both ways as is the old adage and, therefore, the petitioners cannot escape the liability of such an offence by merely bringing on record an *alibi*. The petitioner no. 1, who is the sole culprit and was later on supported by other petitioners and, therefore, they may not be extended the privilege of anticipatory bail.

However, taking into consideration all facts and circumstances and that there being no material in the case diary,

save and except of the history of previous enmity and also that the medical examination, which was conducted on the victim lady after a period of three days did not exhibit any external and internal violation so as to indicate rape, let the petitioners above named in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 10,000 (Rs. Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Bhargama P.S. Case No. 155 of 2015 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Anjana Mishra, J)

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