

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36686 of 2017

Arising Out of PS.Case No. -40 Year- 2017 Thana -JAKKANPUR District- PATNA

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Ashutosh Kumar Son of Ram Chandra Prasad, R/o Village- Barka
Dhankutwa, P.S.- Balthar, District- East Champaran

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Birendra Kumar Singh, Advocate.

For the Opposite Party : Mr. J.K. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 04-102017 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is in custody since 15.02.2017 in connection with Jakkanpur P.S. Case No. 40 of 2017 for the offences alleged under Sections 387, 376 of the Indian Penal Code and Section 66(A) of Information Technology Act.

3. It is submitted that the petitioner has been falsely implicated and in any event offences as alleged are not made out against the petitioner. It is submitted that there is no allegation of extortion in order to attract the provision of Section 387 of the Indian Penal Code nor ingredients of Section 376 of the Indian Penal Code are made out as admittedly the physical relationship was consensual. The provisions of Section 66(A) of the Information Technology Act have been held to be *ultra vires* in the case of *Shreya Singhal v. Union of India*, reported in *AIR 2015 Supreme Court 1523*.

4. Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner above



named be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Judge I, Patna cum Additional Chief Judicial Magistrate, Patna, in connection with Jakkanpur P.S. Case No. 40 of 2017, on the following conditions:-

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Vikash Jain, J)

Md. Ibrarul/BT

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