

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32395 of 2016

Arising Out of PS.Case No. -71 Year- 2015 Thana -MAHILA PS District- DARBHANGA

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1. Md. Parwez @ Parwej Son of Md. Akbar resident of village - Rauta, P.S.
- Kusheshwar Asthan, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Iqbal Asif Niazi, Advocate

For the Opposite Party/s : Mr. Sri Nityanand Tiwary

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 30-01-2017 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises
out of Darbhanga Mahila Police Station Case No. 71 of 2015,
disclosing offences under Sections 376 of the Indian Penal Code
and 4/6 of the POCSO Act.

Accusation is of rape and threat.

Learned Counsel for the petitioner has submitted
that entire prosecution story appears to be a concocted one in
order to harass the petitioner as the alleged occurrence took
place on 28.10.2015 and after lapse of more than a month, a
First Information report, implicating this petitioner, has been
lodged. In fact, this case is nothing but an outcome of earlier
dispute, for which, Asthan P.S. Case No. 291 of 2015 has been
lodged at the instance of one Phool Hasan, who happens to be



uncle of this petitioner, against the informant's side. So far case under Section 376 I.P.C. is concerned, according to the medical report, annexure-3, there is no sign of rape on the person of the victim. Therefore, no case under Section 376 I.P.C. is made out against this petitioner. This fact has also been supported by the investigating officer who also found that there is no ingredient to make out a case under Section 376 IPC rather the entire case comes under the purview of Section 354/354(B) of the Indian Penal Code. Hence, the petitioner deserves the privilege of bail.

Considering the facts and circumstances of the case, let the petitioner, above named, in the event of his arrest or surrender before the Court below within six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Session Judge-cum- Special Judge, POCSO Act, Darbhanga, in connection with Darbhanga Mahila Police Station Case No. 71 of 2015, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Arvind Srivastava, J)

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