

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.653 of 2017

Arising Out of PS.Case No. -460 Year- 2004 Thana -COMPLAINT CASE District- SUPAUL

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Md. Abu Bakar son of Sri Abdul Rahim Mian resident of Village Madhopur
P.S. Chhatapur, District Supaul.

.... Petitioner

Versus

1. The State of Bihar,
2. Bibi Anisha Khatoon, Wife of Md. Naushad, Resident of village-
Madhopur, P.S. Chattarpur, District-Saupaul.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan

For the Opposite Party/s : Mr. Nagendra Prasad

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**
ORAL ORDER

5 06-11-2017 Heard learned counsel for the petitioner and the learned
A.P.P. for the State.

The petitioner apprehends his arrest in connection with
Complaint Case no. 460 (C) of 2004, registered under Sections 376
and 511 of the Indian Penal Code.

The accusation is that due to differences in between
family members of her Mayka and in-laws, the informant used to
reside at her Mayka. On 28.06.2004, he proceeded to her Mayka for
her matrimonial house in village Madhopur then in the way, Md.
Akhtar, Ahmad Safi, Md. Sakim, Md. Abukar (Petitioner) and Bhola
Mian surrounded her and forcibly took her in the forest after putting
hand on her mouth, where Md. Akhtar Ali laid her on the ground and
committed rape upon the informant. Thereafter, Ahmad Safi also



committed rape upon her on the point of pistol. On raising alarm, villagers reached there and all the accused fled away from there.

Learned counsel for the petitioner submits that it would appear from the Complaint petition that while petitioner along with other were present, but specific allegation of rape upon the informant is against Md. Akhtar Ali and Ahmad Safi, but no overt act has been attributed against the petitioner. Further submission is that the prayer of pre-arrest bail of the petitioner was rejected by this Court on 13.08.2007 vide Criminal Miscellaneous No. 35133 of 2007. Thereafter, the petitioner preferred Special Leave to Appeal (Crl) No(s). 7058 of 2007, which was disposed of on 27.02.2009 with liberty to the petitioner to move before an appropriate authority for quashing of the complaint on or before 20.03.2009 giving protection to the petitioner. Thereafter, petitioner filed Criminal Miscellaneous No. 41355 of 2008 under Section 482 Cr.P.C. in which further proceeding was stayed, but unfortunately, on 25.04.2016 none was appeared on behalf of petitioner due to that reason the said application was disposed of. Further submission is that complainant, who is victim of this case, has also filed the application in the Court of Judicial Magistrate, 1st Class, Supaul with contention that this petitioner was not involved in the alleged occurrence. Thereafter, petitioner again filed A.B.A. No. 752 of 2016 in the Court of Sessions Judge, Supaul, which was rejected on 01.09.2016.

Having regard to the facts and circumstances of the case,



let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Chief Judicial Magistrate-III, Supaul in connection with Complaint Case No. 460 (C) of 2004, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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