

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29158 of 2017

Arising Out of PS.Case No. -13 Year- 2017 Thana -PARSA District- SARAN

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Upendra Kumar @ Upendra Rai Son of Lakshman Rai, resident of Village-
Chetan Parsa, P.S. Parsa, District- Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Harsh Singh, Adv.

For the Opposite Party/s : Mrs. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 19-08-2017 Heard both sides.

The petitioner apprehends his arrest in Parsa P.S.
Case No. 13/2017, registered for the offences punishable under
Sections 376, 406, 420, 504, 506, 120B of the Indian Penal Code.

The complainant filed complaint case on the basis of
which the present F.I.R. was lodged. The complainant/informant
alleged that the petitioner runs a coaching institute and she was
taking coaching in his institute. The petitioner established physical
relation with the victim since the year 2009 while she was minor
on threat. Later on, the petitioner assured to marry with the victim,
but he refused to marry.

Learned counsel for the petitioner submits that the
entire story disclosed in the complaint petition is bundle of lies. It



is further submitted that the victim herself alleged that the petitioner established physical relation with the victim in the year 2009, but she did not complain about this thing. The petitioner continued to have physical relation till the year 2016, when the petitioner got married, the victim lodged this case. It is further submitted that the villagers of the village of the petitioner filed petition before the Officer Incharge that the victim is a girl of bad character and no occurrence as alleged by the victim has ever taken place. Many villagers of the village of the victim also filed such application before the S.H.O. One of them also filed informatory petition that since he is a signatory of a petition against the victim, the victim may implicate him in a false case. The victim also filed a case on 11.06.2017 alleging therein that while she was going to take caste and residential certificate on 25.05.2017, one person came on a motorcycle and followed her and tried to throw conc. acid on her, but she somehow fled away from there. The victim informed the police and also gave number of motorcycle of that man who was following the victim.

Learned counsel for the petitioner further submits that Delhi High Court in a similar case (State (Govt. of NCT of Delhi) vs. Jitendra Kumar & Anr) held that the generally the victim of a rape does not make any false allegation, but there are



many instances of institution of false case under Section 376 of the Indian Penal Code.

On the other hand, learned counsel for the informant as well as the learned A.P.P. vehemently opposed the prayer for anticipatory bail of the petitioner and submitted that the informant submitted that from the perusal of the statement of the victim recorded under Section 164 Cr.P.C. it would be amply clear that the case is true. The victim is in possession of the entire photographs and recording of the conversation between the victim and the petitioner. The victim showed the photographs and the recording of the conversation between the victim and the petitioner before the Judicial Magistrate who recorded the statement of the victim.

From perusal of the record, it appears that the victim made allegation that while she was minor and was going to take tuition in the coaching institute of the petitioner, the petitioner on one pretext or the other established physical relation with her. The petitioner continued to have physical relation with the victim till the year 2016 on threat as well as on assurance of marriage. The statement of the victim was recorded under Section 164 Cr.P.C, it appears that the victim has narrated the entire story and also produced the C.D. of the conversation between the informant and



the petitioner and showed the photographs. From the petitions filed by the villagers of the petitioner and the villagers of the victim, it appears that the villagers stated that the victim filed false case and they alleged that the victim is of bad character. Generally, in such case, I do not find that the villagers filed such case stating that the victim is of bad character. The C.D. and the photographs showed to the Judicial Magistrate who recorded the statement of the victim under Section 164 Cr.P.C. makes it amply clear about the truthfulness of the allegation and support the version of the victim.

Considering the facts aforesaid and nature of allegation made against the petitioner, I am not inclined to enlarge the petitioner above-named on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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