

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36747 of 2018

Arising Out of PS.Case No. -318 Year- 2018 Thana -KATIHAR District- KATIHAR

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Md. Jafar Rakib @ Md. Zafar Rakib S/o Late Md. Abdul Rakib, R/o Vill.-
Chapraili, P.O.- Bara Idgah, P.S.- Amour, District- Purnea (Bihar).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri

For the Opposite Party/s : Mr. Pramod Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 29-06-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks anticipatory bail in Katihar Town
(Sahayak) P.S. Case No.318 of 2018 instituted for the offences
under Section 377 of the Indian Penal Code.

The petitioner is holding the post of Additional Collector,
Katihar. Allegation has been made to have entered into
unnatural offence with victim which he has disclosed in the
statement made under Section 164 of Code of Criminal
Procedure, narrated the fact in what manner unnatural offence
was committed and he has some how escaped from there.

Learned counsel for the petitioner submits that the case
has been lodged after ten days and the allegation is as such



nature, it is not expected from a person who is aged about 58 years, to commit such offence there is variance and improvement in the statement recorded under Section 164 of the Code of Criminal Procedure vis-à-vis the statement recorded in the First Information Report as well as medical report is in favour of the petitioner. In the First Information Report short story has been recorded but in the statement made under section 164 of Code of Criminal Procedure he has given details of the incident. Though in the First Information Report allegation of unnatural offence has been mentioned but not in detail but detail of facts has been given in the statement made under section 164 of Code of Criminal Procedure.

So far delay is concerned, naturally a person will not straightway come to the police station but when the person is feeling shocked, certainly he after sometime recovered and lodged a case against the petitioner who is holding the post of Additional Collector and since petitioner is Additional Collector, the doctor has given the report showing that no offence was committed but the victim has specifically mentioned the manner the offence was committed. So far as evidence in the case diary is concerned, it cannot be better evidence than the victim who has come forward and made



statement that offence was committed in the closed room. The question of any of third person witness does not arise of such incident.

In such view of the matter, this Court is not inclined to enlarge the petitioner on anticipatory bail. Accordingly the prayer for bail is rejected. However, if the petitioner surrenders before the court below within a period of three weeks, the court below will pass an order on its own merit without being prejudiced by the order passed by this Court.

(Shivaji Pandey, J)

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