

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50609 of 2016

Arising Out of PS.Case No. -190 Year- 2015 Thana -BIHARIGANJ District- MADHEPURA

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Md. Shamsher, S/o Md. Kalim Mian, Resident of Village- Jhalari, P.S. Akbarpur, District Purnea. Presently residing resident of Village- Jotaili Gulab Tola, P.S Bihariganj, District Madhepura.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha

For the Opposite Party/s : Mr. Sri Khurshid Anwar

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

10 24-01-2018 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Bihariganj P.S. Case No. 190 of 2015 registered under Sections 366, 376, 323, 504 and 120B/34 of the Indian Penal Code.

The accusation is that this petitioner seeing alone to the complainant-informant, Shabana Khatoon, in her house developed physical relation, in the evening of 15.05.2015, on assurance to perform the marriage, but later on, petitioner used to avoid to perform the marriage with the complainant. The complaint-informant asked the petitioner to perform the marriage then he refused to perform the marriage. Thereafter, she narrated



the incident to her mother, on which, her father and villagers made complaint to Md. Kalim Mian, father of the petitioner, but he and his family members refused to arrange the marriage of the petitioner with the complainant-informant and all managed to perform the *Nikah* of complainant-informant with Md. Salman Alam, against her will and after *Nikah* she was accompanied by Md. Salman Alam at Saharanpur, where Md. Salman Alam committed rape on her forcibly. Md. Salman Alam became ready to carry her to her father's house, but on pretext of bringing water, Md. Salman Alam moved from Railway Station, Saharanpur. She anyhow boarding on train reached at her father's house, but she was compelled to live inside the house by petitioner and his family members.

Learned counsel for the petitioner submits that it would appear from the complaint petition, which is the basis of the F.I.R., that *Nikah* of complainant-informant was performed with Md. Salaman Alam who accompanied her at Saharanpur, but in course of returning from there to house, she was left alone at Railway Station and she came at her father's house. While she stated in her statement recorded under Section 164 Cr.P.C. that her mother saw her with the petitioner in objectionable position then she disclosed her mother about assurance of petitioner to perform



the marriage with her. Thereafter, her mother arranged the Panchayat and Panchayat arranged her *Nikah* with Md. Mohsim and both went to Saharanpur, where this petitioner reached and claimed her as wife then she was left by Md. Mohsim. Thereafter, when she asked to petitioner for *Nikah* then he refused. In fact, only to give pressure to perform *Nikah* the informant lodged the complaint case on false allegation which is the basis of the F.I.R.

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 six 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 J.M. Ist Class, Udakishunganj at Madhepura, in connection with Bihariganj P.S. Case No. 190 of 2015, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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