

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27196 of 2018

Arising Out of PS.Case No. -26 Year- 2014 Thana -MAHILA P.S District-
WESTCHAMPARAN(BETTIAH)

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Durgesh Kumar Sah @ Durga Shankar Sah Son of Late Ashok Sah @ Late
Sushil Sah, Resident of Village- Patkhoul, Ward No. 3, Police Station-
Patkhoul, District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, APP

For the Opposite Party/s : Mr. Smt. Sahin Begam, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 09-05-2018

Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner has renewed the prayer for
anticipatory bail in a case registered for the offences punishable
under Sections 341, 448 and 354B of the Indian Penal Code.

The prosecution case as per the written report
of Guddi Devi dated 07.06.2014 submitted to the Station House
Officer, Bagaha Mahila P.S. is to the effect that the informant
being the Asha worker and her husband being the LIC agent are
working at Bagaha and residing since last four years as a tenant
in the house of the petitioner. Since one and half years the
petitioner wanted to have physical relationship with the
informant but the informant did not share this fact with anyone
due to social prestige. About two months prior to the lodging of



the case the informant conveyed such fact to her husband, who tried to resolve the issue with the petitioner, but on 15.04.2014 at 9.00 P.M. in the night when the informant's husband was not in the house and she was cooking, in the meantime, the petitioner came and caught hold of the informant with bad intention. On alarm being raised, the petitioner escaped from the scene. On 04.06.2014 again in the night the petitioner came inside the house and attempted to ravish the informant and tore her blouse.

It is submitted by learned counsel for the petitioner that in the background of tenancy dispute the accusation has been levelled. Earlier the petitioner preferred Cr. Misc. No. 39072 of 2014 with a prayer for anticipatory bail but the same was permitted to be withdrawn vide order dated 18.02.2015. Subsequent to that, perhaps, since on conclusion of investigation, the investigating agency submitted Final Report No. 60/14 on 21.10.2014 finding the case to be false, though, the said fact was not submitted before this Court. However, consequently on notice to the informant the learned Sub-divisional Judicial Magistrate, Bagaha vide order dated 11.04.2016 differed with the final report and took cognizance under Sections 341, 448 and 354B of the Indian Penal Code. However, the order does not suggest any specific material which



persuaded the learned SDJM to differ with the final report.

Considering the fact that since final report was submitted, the petitioner had no apprehension of arrest at that point of time, but since the learned SDJM differing with the final report took cognizance, now the petitioner has apprehension, this Court feels that the second anticipatory bail application is maintainable. Hence, keeping in view the fact that it appears that in the background of tenancy dispute between the petitioner and the informant and the accusation being found false on conclusion of investigation, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Bagaha, West Champaran in connection with Trial No. 09 of 2017, arising out of Bagaha Mahila P.S. Case No. 26 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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