

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9065 of 2019

Arising Out of PS. Case No.-199 Year-2018 Thana- KARAHGAR District- Rohtas

KAMLA TIWARY Son of Late Shivmuni Tiwary Resident of Village –
Khakhara, P.S.-Barahari (O.P.), District-Rohtas.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh

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

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 15-02-2019

Heard learned counsel for the parties.

This application for anticipatory bail arises out of Kargahar (Barahari O.P.) P.S. Case No. 199 of 2018 for the offence under Sections 341, 323, 376 and 511/34 of the Indian Penal Code.

The petitioner is the father-in-law of the informant. It is alleged in the First Information Report that the petitioner entered into the room of the informant and attempted to outrage her modesty. It is also alleged that when the husband of the informant came, he also assaulted the informant and the wife of brother of the husband of the informant also assaulted her. The present First Information Report was registered on 05.06.2018. It is evident from the First Information Report that the informant is living in her matrimonial home and nearly five years before



lodging of the present case, the informant had lodged a criminal case against her husband and all family members alleging commission of offence punishable under Section 498A of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner has submitted that it is apparently a malicious prosecution and what has been alleged in the First Information Report is highly improbable. Learned counsel appearing on behalf of the informant, however, has opposed the prayer for anticipatory bail.

Keeping in mind the fact that the informant had already lodged a criminal case against her husband and other family members for an offence punishable under Section 498A of the Indian Penal Code, lodging of the present criminal case with the nature of allegation as made does not rule out a chance that the accusation has been made with the object of injuring or humiliating the applicant by having him arrested in the present case by making allegation of serious nature.

Considering the ground available for grant of anticipatory bail under Section 438 of the Cr.P.C., in my view, a case for grant of anticipatory bail is made out. This application is accordingly allowed.



Let the petitioner above named, in the event of his arrest/surrender within six weeks from today in the Court below, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Sasaram, Rohtas in Kargahar (Barahari O.P.) P.S. Case No. 199 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

Considering the nature of the case, I direct the Superintendent of Police, Rohtas, to get the investigation concluded under his supervision and if a case of malicious prosecution is made out, he shall proceed accordingly.

(Chakradhari Sharan Singh, J)

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