

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13470 of 2019

Arising Out of PS. Case No.-163 Year-2018 Thana- MAHILA P.S. District- Patna

Dr. Ashutosh Kochgaway, son of Sheo Kumar Kochgaway @ Sheo Kumar Sinha, Resident of Village - Haziganj (in front of Office of LIC) PS- Chowk, Distt - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anjani Parashar

For the Opposite Party/s : Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 06-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 376, 420, 120B of the Indian Penal Code registered in connection with Mahila P.S. Case No. 163 of 2018.

3. It is submitted that the petitioner has been falsely implicated in retaliation to the earlier cases filed by the mother of the petitioners in Case No.704 of 2018 under Section 107 Cr.P.C. and Complaint Case No.1106 of 2018 converted into Chowk P.S. Case No.401 of 2018 for the offences under Sections 384, 389, 500 and 506 IPC, against the informant and her family members. The medical report does not disclose any violence mark on the informant's body nor her private parts. It



is submitted that in her deposition recorded under Section 164 Cr.P.C., she has stated that the petitioner had committed rape after giving false assurance of marriage but the offence under Section 376 IPC is not made out in view of the decision of the Supreme Court reported in (2016)4 SCC 140 (Tilak Raj Vs. State of Himachal Pradesh). The petitioner is an accused in one prior case of different nature. .

4. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on provisional bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned A.C.J.M., Patna in connection with Mahila P.S. Case No. 163 of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions:

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself



available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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