

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.33314 of 2019

Arising Out of PS. Case No.-36 Year-2019 Thana- BAIRIYA District- West Champaran

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KRISHNA CHOUDHARY @ KRISHNA KUMAR CHOUDHARY, Son of
Sri Tilak Choudhary, Resident of Village-Tilangahi, Madhurbana, P.S.-
Bairiya, District-West Champaran, Bettiah.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms.Mahasweta Chatterjee

For the Opposite Party/s : Mr.Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

3 30-08-2019 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail,
arises out of Bairiya Police Station Case No. 36 of 2019,
disclosing offences under Sections 376, 504 and 506 of the
Indian Penal Code.

The allegation against the petitioner, as per the First
Information Report, is that on 01.01.2019, when the informant
was sleeping in her hut along with her children, at about 12
o'clock, in the night, the petitioner entered into her hut and
forcibly committed rape on her and also threatened her not to
disclose the occurrence to anybody otherwise she would be



killed. It has further been alleged that after the occurrence, the informant gave a telephone call to her husband, who was living in Ludhiana and her husband advised her to wait till he would return from Ludhiana and when her husband came to the village two days' back, she has lodged the present First Information Report on 28.01.2019.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in the present case inasmuch as both, the petitioner as well as the informant belong to the same village and there is land dispute between them. She, referring to Annexure-3, which is an appeal filed before Deputy Collector Land Reforms, Bettiah, against the order of mutation passed by the Circle Officer, Bairiya, between the appellant, Sunaina Devi (mother of the petitioner) and Sangita Devi (mother-in-law of the informant) and relying on Annexure-2, which is the statement of the informant recorded under Section 164 of the Code of Criminal Procedure, 1973, submits that there is discrepancy in the statement of the informant under Section 164 of the Code of Criminal Procedure, 1973 and the First Information Report inasmuch as in her statement under Section 164 of the Code of Criminal Procedure, 1973, she has stated that on the date of occurrence, she along with the petitioner was



taken to the Police Station and the police took her signature on a blank paper and told her that the petitioner would go to jail and she lodged First Information Report when her husband came from Ludhiana on 07.01.2019; whereas in the First Information Report, the informant has categorically stated that after the offence was committed by the petitioner, she talked to her husband on phone and her husband advised her to wait till he arrives and when her husband arrived two days' back, she has lodged the present First Information Report, on 28.01.2019. She further submits that in course of investigation, the witnesses have stated that the petitioner is a man of good character and in paragraph 36 of the case diary, the police, on the basis of the statement made by the villagers, has recorded that the petitioner has falsely been implicated due to land dispute and the informant is a woman of easy-virtue.

After having heard learned Counsel for the parties and taking into consideration the fact that there is land dispute between the parties and there is discrepancy in the statement of the informant under Section 164 of the Code of Criminal Procedure, 1973 and the First Information Report and in course of investigation, the villagers have stated that the informant is a woman of bad character, I am inclined to grant the petitioner



privilege of anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, Krishna Choudhary @ Krishna Kumar Choudhary, in the event of his arrest or surrender before the Court below within four weeks, 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 learned 7th Additional Chief Judicial Magistrate, West Champaran, at Bettiah, in connection with Bairiya Police Station Case No. 36 of 2019, subject to the condition 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 bond shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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