

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31069 of 2019

Arising Out of PS. Case No.-248 Year-2018 Thana- AIRPORT District- Patna

Sheshnath Singh S/o Late Ram Kailash Singh R/o village- Baghoi, P.S.-
Haspura, District- Aurangabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Singh, Advocate

For the Opposite Party/s : Mr.Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 25-07-2019 Heard learned counsel for the petitioner, learned counsel
for the informant and learned APP for the State.

The petitioner has filed the instant application for anticipatory bail apprehending his arrest in connection with Hawaii Adda P.S. Case No. 248 of 2018 registered for the offence under sections 363, 366A and 498 of the Indian Penal Code pending in the Court of Judicial Magistrate, 1st Class, Patna.

The allegation as per the FIR alleged by the informant is that his son was married in the year 2013 to one Sweeti Kumari. His son was working in Raipur, Chhatisgarh and used to visit him in his vacations. It was alleged that in the meantime his daughter-in-law gave birth to a son who was now three years old. It was further alleged that his daughter-in-law came in contact with a person, the petitioner herein, and without giving



any information she left on 12.10.2018 and has not returned. It is alleged that the petitioner had taken away his daughter-in-law with illegal intentions.

It was submitted on behalf of the petitioner that the petitioner has not committed any offence, there is no material against this petitioner who is a victim of malicious prosecution. It was further submitted that while sections 363 and 498 of the Indian Penal Code are bailable offence, so far as section 366A of the Indian Penal Code is concerned, the same would not apply in the case as admittedly the daughter-in-law of the informant was not a minor. It is further submitted that the statement of the informant's daughter-in-law Sweeti Kumari was also recorded under section 161 Cr.P.C wherein she has stated the true facts without any pressure and she was medically examined on her return. It is finally submitted that in view of the facts the petitioner be enlarged on bail.

The learned counsel for the informant submits that on having been recovered, the statement of Sweeti Kumari was recorded under section 164 Cr.P.C. wherein she has made direct allegations of kidnapping, teasing, making of video and of having blackmailed her against the petitioner.

On behalf of the State, it has been submitted by learned



APP that if the statement of the victim recorded both under sections 164 and 161 Cr.P.C are at variance, there is no doubt that the statement under Section 164 Cr.P.C would prevail. It is further submitted that in her statement under section 164 Cr.P.C the lady Sweeti Kumari has made serious, categorical and direct allegations against the petitioner and as such it is a fit case where the application for bail should be rejected.

Having heard learned counsel for the parties and having gone through the records of the case, it transpires that after her return the statement of Sweeti Kumari was recorded under section 164 Cr.P.C, which has been brought on record as Annexure 3 to the application wherein she has made direct and categorical allegations of teasing, making of video and of blackmailing her against the petitioner. She has further categorically stated that she was abducted and taken to Sasaram. It was after lodging of the case/FIR with respect to her disappearance that the petitioner left her where after she could return. So far as the submission of counsel for the petitioner that section 366A of the Indian Penal Code would not be applicable in the case as the victim is not a minor, it may be stated here that from the allegations in the FIR together with the statement under section 164 Cr.P.C it leaves no doubt that a case under



section 366 of the Indian Penal Code is made out against the petitioner.

Having heard learned counsel for the parties and taking into consideration the facts and circumstance of the case, I do not find it to be an appropriate case for grant of anticipatory bail to the petitioner. Accordingly, application for anticipatory bail is rejected and the petitioner is directed to surrender in the court below within six weeks from today.

None of the observations made in the instant application would be used by either of the parties at any subsequent stage of the case/trial.

(Partha Sarthy, J)

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