

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.65953 of 2018

Arising Out of PS. Case No.-445 Year-2015 Thana- ARARIA District- Araria

Anand Yadav

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh
For the Opposite Party/s	:	Mr. Nand Kishore Pd
for the Informant	:	Mr. Mrigendra Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 22-01-2019 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 376/34 of the IPC.

The prosecution case as per the Fardbeyan of Soni Kumari recorded by the ASI Seema Kumari, Araria Mahila Police Station on 3.9.2015 at 6 P.M. is to the effect that on 28.7.2015, while the informant was going to her orchard, she met with her friend Sangam who called her in the next morning at 7 A.M. at her house. The sister-in-law of her friend offered her tea, after taking which, she felt giddiness and after remaining in unconscious state, she regained her consciousness when it was 7 P.M. Thereafter, the informant requested one Manoj Kumar to reach her house but when she came out of her friend's house, she found an autorickshaw parked and co-accused Krityanand



Yada who were already standing on the way, got her seated on the autorickshaw and they injected something in the body of the informant, whereafter the informant became unconscious and when she regained consciousness, she found herself in a room in Katihar where the petitioner ravished her and co-accused Vikas Kumar was assisting the petitioner. Thereafter, the petitioner and co-accused Vikas Kumar took her to Katihar Railway station to take her to Delhi and Siliguri, where the informant contacted the female police personnel and thereafter she was kept in Women Shelter Home.

It is submitted by learned counsel for the petitioner that for the occurrence of 28.7.2015 the FIR was registered on 5.9.2015 though the statement of the informant was recorded on 3.9.2015. During investigation, the informant stated that she was in love with Sani Kumar and in that connection she left her house of her own and thereafter she met with Anand whereas the petitioner's name is Anand Yadav. Some how or the other the informant was kept by police personnel and taken to shelter home and she was afraid of going to her parents' house. Admittedly, the victim was not medically examined and finding inconsistency between the statement made before the investigating agency and the accusation levelled in the FIR, the police submitted final form,



did not send up the petitioner for trial but differing with the same, cognizance has been taken. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that there is specific accusation against the petitioner. However, learned counsel does not deny the fact that there was no medical examination of the victim was done and he has no explanation with regard to the inconsistencies between the subsequent statement of the victim and the FIR. Learned APP, after going through the case diary, submits that though the medical examination of the victim was not done and the police, on conclusion of investigation, did not send the petitioner for trial but subsequently differing with the final form, cognizance has been taken.

Considering the inconsistencies in the statement of the informant victim and the accusation in the FIR, the accusation being not followed by the medical report, after conclusion of the investigation, the petitioner was not sent up for trial, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on anticipatory bail in the



event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Araria in connection with Araria (Bairgachhi) P.S. Case No.445 of 2015 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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