

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48835 of 2018

Arising Out of PS. Case No.-118 Year-2014 Thana- KHAGARIA District- Khagaria

Diwakar Sahni @ Diwakar Kumar, Son of Shri Ramgulam Sahni, Resident of Mohalla- East from Koshi College Ashok Nagar, P.S.- Muffasil, District-Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Mina Devi, wife of Late Arun Muni, resident of village-Malpa, P.S. Chautham, District-Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhakar Kumar, Advocate.
For the Opposite Party/s : Ms. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

3 05-02-2019 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Khagaria (Chitragupta Nagar) P.S. Case No.118 of 2014/G.R. No.385 of 2014 registered under Sections 341, 323, 376, 511 and 379 of the Indian Penal Code.

The accusation is that in course of selling the vegetable, the complainant/informant/opposite party no.2 went at the door of the petitioner, then she was asked by the petitioner to come in the house to give the vegetable. When she entered into the house of the petitioner, the petitioner forcibly dashed her on the ground and tried to commit rape on her. On protest



made by the complainant/informant/opposite party no.2, the petitioner assaulted her and took Rs.400/- of the complainant/informant/opposite party no.2, which was collected by her after selling the vegetable.

Learned counsel for the petitioner submits that, initially, the complainant/informant/opposite party no.2 lodged Complaint Case No.182C of 2014 on 14.02.2014 in the court of the Chief Judicial Magistrate, Khagaria, which was, later on, sent under Section 156(3) of the Code of Criminal Procedure to the concerned Police Station for institution of the F.I.R., on the basis of which the present case was lodged under Sections 341, 323, 376, 511 and 379 of the Indian Penal Code, in which, on investigation, the police submitted the final form but the learned Chief Judicial Magistrate, Khagaria, differing with the final form took the cognizance of the offence against the petitioner. It is further submitted that due to village politics, the petitioner has falsely been implicated in this case and the complainant/informant/opposite party no.2 has also filed an application in the court of the Chief Judicial Magistrate, Khagaria, on 21.03.2014 to the effect that she had not lodged any complaint rather her thumb impression was taken on blank paper. Further submission is that in spite of service of notice to



the complainant/informant/opposite party no.2, she has not appeared to oppose the prayer of the petitioner for grant of privilege of pre-arrest bail.

Having considered the facts and the circumstances of the case, let the petitioner, above named, in the event of his arrest or surrender by him within six weeks from today, be enlarged on bail on his furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Khagaria, in connection with Khagaria (Chitragupta Nagar) P.S. Case No.118 of 2014/G.R. No.385 of 2014, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Rajendra Kumar Mishra, J)

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