

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55564 of 2019

Arising Out of PS. Case No.-230 Year-2019 Thana- BARAUNI District- Begusarai

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RAHUL KUMAR Son of Chunchun Singh Resident of Village - Marachi,
P.S.- Marachi, Distt - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 20-11-2019 Heard Mr. Surendra Kishore Thakur, learned

counsel for the petitioner and Mr. Md. Aslam Ansari, APP for

the State.

The petitioner seeks bail in anticipation of his
arrest in connection with Barauni P. S. Case No. 230 of
2019 dated 02.06.2019 instituted for the offences under
Section 366 of the Indian Penal Code.

According to the F.I.R., the petitioner and one Raja



Kumar had come to the house of the informant / Mina Devi on the pretext of having got delayed at Barauni. The informant spotted Bipul Kumar talking to her daughter in the night when she accosted her daughter and asked her to go in a room and sleep. Later, she found that her daughter / Chandani was missing from the house. One of the brothers of the informant shortly thereafter informed that Chandani was spotted going on a motor-cycle with Bipul Kumar, accompanied by the petitioner / Rahul Kumar and another. On this information, the husband of the informant went to the house of Bipul Kumar, where his parents misbehaved and told her that his daughter has been taken away by their son and also challenged them to take any action that they desired. Hence, the F.I.R. under Section 366 of the I.P.C.

After about some days of the occurrence, the victim girl was recovered and her 164 statement was recorded. In the aforesaid statement, she was stated that she was kidnapped from her house and was taken to Pawapuri where she was raped by the accused persons including the petitioner.



Mr. Surendra Kumar Thakur, learned counsel for the petitioner submits that accusation against the petitioner appears to be false in as much as he is none else but own brother of accused Bipul Kumar who is said to have enticed away the daughter of the informant. In that situation, it has been urged, it does not appear to be probable that two of the brothers with other friends would subject a victim to sexual intercourse. Apart from this, he has submitted that such a statement was made only after the victim was tutored by her parents. Additionally, it has been urged that according to the own showing of the informant, the victim girl was seen talking to Bipul Kumar in the night when she was chastised by her mother and was asked to go back to the room and sleep.

From such averments in the F.I.R., it has been argued, it can be inferred that there was some liaison between Bipul Kumar and the victim girl and it could be a case of elopement.

It was also submitted that the brother of the informant saw the victim being taken away but there is no



statement that the victim was crying for help. No effort also was made by the brother of the informant to intercept the accused persons so as to extricate the victim girl from their possession.

On the aforesaid grounds, the petitioner seeks anticipatory bail.

The very fact that Bipul Kumar along with his friends went to the house of the informant in the dead of the night on the pretext of having got delayed at Barauni and had taken away the daughter of the informant to an unknown destination reflects the daredevilry of aforesaid Bipul Kumar. Had Bipul Kumar been in some kind of association with the daughter of the informant, this would not have been the method of taking her away in the dead of the night.

In this background, it is difficult to ignore the 164 statement of the victim girl that she was raped by four persons.

Considering the aforementioned two aspects of the matter, I am not inclined to grant anticipatory bail to the



petitioner.

The prayer for anticipatory bail is rejected.

It would be open for the investigating agency to consider the desirability of adding 376(d) of the Indian Penal Code as there is an allegation of gang rape of the victim.

(Ashutosh Kumar, J)

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