

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 53980 of 2019

Arising Out of PS Case No.-8 Year-2019 Thana- BETTIAH CITY District- West Champaran

Shivam Kumar, aged about 19 years, Male Son of Anand Mishra Resident of Village - Jokaha, P.S.- Bettiah Muffasil (Manuapul), District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the State : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 20-11-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has moved the Court seeking pre-arrest bail in connection with Bettiah Town PS Case No. 08 of 2019 dated 02.01.2019 instituted under Sections 376 of the Indian Penal Code, 66(A) of the IT Act and 8 of the POCSO Act.

3. The allegation against the petitioner is that he had administered some medicine to the informant which after being consumed, she became unconscious and the petitioner has committed rape and taken some photographs and had threatened to upload it on social media and had also forwarded it to the family of the informant and his friends.



4. Learned counsel for the petitioner submitted that the family of both the parties were living next door and there may have been love affairs and further, after six months of the alleged occurrence, the FIR has been lodged. Learned counsel submitted that it has come during investigation that when the IO wanted the informant to record her statement under Section 164 of the Code of Criminal Procedure, 1973, she refused and further the photographs alleged to have been sent by the petitioner were also not shown to him. It was submitted that in fact, the family of the informant wanted marriage of the informant with the petitioner and when the same did not materialize, a false case has been lodged. Learned counsel submitted that she has also refused for medical examination.

5. Learned APP, from the case diary, submitted that many witnesses have supported the prosecution story and most importantly, when the victim herself has alleged such occurrence, the same cannot be brushed aside. It was submitted that the delay of six months is explainable as even if there was some love affairs between the parties, obviously, the parents would first try to negotiate marriage so that the prestige of the girl is not damaged in the society and further that the girl not showing the photographs is also natural as nobody would want to show the photographs in a



state which is not fit to be shown to any person. Learned APP submitted that as far as medical examination is concerned, after six months, as it is, the same would be of no evidentiary value and, thus, the request of the Investigating Officer for medical examination, for all practical purposes, could not have been of much help and rightly refused by the informant. Further, it was submitted that no girl would make an allegation of being raped as it would damage her own prestige and reputation and future marriage prospect, and, thus, the same cannot be said to be false.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to allow the prayer for pre-arrest bail to the petitioner.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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