

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.76437 of 2018

Arising Out of PS. Case No.-67 Year-2018 Thana- DANDARI District- Begusarai

Jai Shankar Choudhary Son of Awadesh Choudhary Resident of Village-
Meha, P.S. Dandari, District- Begusarai Petitioner/s
Versus
The State Of Bihar Through S. P. Begusarai Respondent/s

Appearance :

For the Petitioner/s : Mr. S. K. Lal
Mr. Pritish Kumar Lal
For the State : Mr. Ashok Kumar
For the informant : Mr. Vivekanand Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 15-01-2019 Heard learned Counsel for the petitioner, learned Counsel or the informant and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Dandari Police Station Case No. 67 of 2018, disclosing offences under Sections 363 and 366A of the Indian Penal Code.

The mother of the victim is the informant of this case and it is alleged that the petitioner had earlier also kidnapped the victim and kept her for 10-12 days with him.

The statement of the victim has been recorded in the present case under Section 164 of the Code of Criminal Procedure, 1973, wherein she has alleged that the petitioner had kidnapped her with other co-accused persons, Awadesh Choudhary and Bumbum Choudhary. She has also asserted, in her statement, that all the three established physical relationship



with her, after kidnapping her.

Learned Counsel appearing on behalf of the petitioner has contended that it is a clear case of malicious prosecution and has referred to the earlier case which was registered against the petitioner, being Dandari P.S. Case No. 27 of 2018, which, too, was registered with the allegation of kidnapping of the same alleged victim. In the said case also, the police had got statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973. Referring to the said statement, learned Counsel for the petitioner has submitted that the present prosecution and the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973, does not at all inspire confidence.

Learned Counsel representing the informant, on the other hand, has vehemently opposed the prayer for anticipatory bail.

However, I find substance in submission made on behalf of the petitioner upon perusal of the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973 in Dandari Police Station Case No. 27 of 2018. In her statement she had blamed her parents of unnecessary coercion because she used to interact with the petitioner. The



police had submitted report under Section 173 of the Code of Criminal Procedure, 1973 in the said case on 13.07.2018, finding it to be mistake of fact. Less than one month, thereafter, the present First Information Report came to be registered.

Considering the facts and circumstances as noted above, this application is allowed.

Let the petitioner, Jai Shankar Choudhary, in the event of his arrest or surrender before the Court below within six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Smt. Sweta Grewal, Judicial Magistrate, 1st Class, Begusarai, in connection with Dandari Police Station Case No. 67 of 2018, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

(Chakradhari Sharan Singh, J.)

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