

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71149 of 2019

Arising Out of PS. Case No.-471 Year-2018 Thana- COMPLAINT CASE District- Jamui

DIWAKAR CHAURASIYA Son of Arun Chaurasiya Resident of Village - Harmapahi Tola - Nazari, P.O. and P.S.- Laxmipur, District- Jamui, At present posted as Assistant Teacher in Upgraded Middle School, Yogia, P.S.- Laxmpur, District- Jamui

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sanju Devi Wife of Dular Tanti Resident of Village - Bahadurpur, District- Sikandra, District- Jamui

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prakash Mahto
For the Opposite Party/s : Mr.Md. Mushtaque Alam

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 05-03-2020 Heard learned counsel for the petitioner as well as learned Addl. Public Prosecutor for the State and learned counsel for the complainant.

Petitioner is apprehending his arrest in Complaint Case no. 471C/2018 in which cognizance has been taken under sections 406, 420 and 354 of the IPC.

Allegation in the complaint is that the petitioner being a government teacher had agreed to facilitate appointment and joining of the complainant as a peon in the school on the basis of false certificate.

It is on such agreement that complainant had allegedly gone for joining school where petitioner had allegedly attempted



to commit rape upon the complainant. Complaint has been lodged making such allegation.

Pointing to the statement on solemn affirmation, it is submitted by counsel for the petitioner that in the statement under S.A. no detail of date etc has been mentioned by the complainant.

As per allegations made in the complaint, the complainant herself has attempted to obtain appointment on the basis of forged/ false certificate which she alleged to be issued by the petitioner.

Complaint petition therefore, discloses the illegal act of the complainant herself. On the basis of such illegal agreement offence can not by no stretch of imagination be made out against the petitioner.

Counsel for the complainant has opposed the prayer. He submits that the petitioner has attempted to commit rape upon the complainant and subsequently, petitioner's service has also been discharged as he had obtained appointment on forged certificate.

Considering the rival submissions, prayer for anticipatory bail is allowed.

In the event of arrest/ surrender within four weeks



from the date of receipt of a copy of the order in the court below, petitioner shall be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of Smt. Bharti Kumari, Judicial Magistrate, Jamui in Complaint Case no. 471C/2018 subject to the condition under section 438(2) Cr.P.C and other conditions.

(1) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(2) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

s.hassan/-

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