

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66018 of 2019**

Arising Out of PS. Case No.-13 Year-2019 Thana- MAHILA PS District- Darbhanga

Shamim Ahmad @ Mohd. Shamim Ahmad @ Shamim @ Mohammed Samim
@ Shamim Son of Abdul Barik Resident of Village - Jagdishpur, P.S.-
Manigachhi, P.O. Nehra, Dist.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa

For the Opposite Party/s : Mr.Yogendra Kumar

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

4 05-03-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending his arrest in a case
registered for the offences punishable under Sections 448 and
376/34 of the Indian Penal Code.

The prosecution case as per the written report of
Hazra Khatoon submitted to the Station House Officer,
Laheriasarai Mahila Police Station is to the effect that on
15.02.2019 at 8.00 P.M., the petitioner and co-accused Ramnath
Sahni came in inebriated condition and on the point of knife, the
informant was ravished by the petitioner whereas co-accused
Ramnath Sahni was watching at the gate.

It is submitted by learned counsel for the petitioner



that the son of the petitioner is the Secretary of Madarsa Sifat-ul-Islam, Manigachhi where the informant was a cook but since the informant had gone on strike and the government decided not to allow the payment for the strike period, hence, as a retaliatory measure, the present case has been lodged against the petitioner. For the alleged occurrence of 15.02.2019 at 8.00 P.M. the FIR has been lodged on 16.02.2019 at 3.15 P.M. but it reached to the learned Magistrate on 20.02.2019 which suggests that by antedating, the FIR has been lodged. It is further submitted that the victim-informant was medically examined on 18.02.2019, i.e., after three days of the alleged occurrence, when neither any internal or external injury nor any sign of rape has been found by the doctor. It is further submitted that the petitioner was assaulted at the hands of the informant's side, leading to registration of Manigachhi P.S. Case No. 126 of 2019 with accusation under Sections 147, 148, 149, 341, 323, 324, 307 and 379 of the Indian Penal Code. However, a counter blast to the same was also filed by the informant, being Manigachhi P.S. Case No. 123 of 2019 with accusation under Sections 341, 323, 307, 354, 506 and 504/34 of the Indian Penal Code. The petitioner is accused in two other cases apart from the present case.



Learned counsel for the informant submits that the accusation of rape is specific against the petitioner.

Learned APP after going through the case diary submits that the informant has supported the accusation in her statement recorded under Section 164 of the Cr.P.C.

Considering the delayed lodging of the case, accusation not being corroborated by the medical opinion and the fact that the informant was medically examined after three days of the alleged occurrence, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Darbhanga in connection with Darbhanga Sadar Mahila P.S. Case No. 13 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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