

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78040 of 2019

Arising Out of PS. Case No.-384 Year-2019 Thana- CHIRAIYA District- East Champaran

Saheb Sah, aged about 25 years (male), son of Laldhar Sah, resident of village-Dharohara, P.S.- Chiraiya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 21-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Anil Kumar, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Chiraiya P.S. Case No.384 of 2019 dated 28.07.2019, instituted under Sections 341, 342, 323, 354(b), 504, 506/34 of the Indian Penal Code.

4. The allegation against the petitioner and three unknown is of trying to outrage the modesty of the informant and after assault also threatening her.



5. Learned counsel for the petitioner submitted that the allegation is false and concocted. It was submitted that the petitioner's sister, Kiran Devi, was assaulted by the informant's side on 01.09.2018, much before the present case for which she had filed a petition before the In-charge, Sadar Hospital, Motihari, and the Deputy Superintendent, Sadar Hospital, Motihari, on 03.09.2018 and subsequently a *Panchayati* was held on 10.09.2018 in which it was decided that in future no one would make nuisance and if any party does so, he will be punished with fine of rupees fifty thousand. It was submitted that at the instance of the father of the informant the present false case has been lodged due to such previous enmity. Learned counsel further submitted that the petitioner has no other criminal antecedent.

6. Learned APP, from the case diary, submitted that the petitioner cannot be said to be innocent for the reason that the informant, who is 14 years of age, as disclosed in the statement recorded before the Court under Section 164 of the Code of Criminal Procedure, 1973, has specifically stated his name and also stated that only because some other women of the village had come there, the accused could not succeed in their attempt. Learned counsel submitted that plea of the



petitioner's sister filing a petition before the hospital authorities is an afterthought as no such plea has been taken before the Court below at the time pressing the anticipatory bail application of the petitioner. It was further submitted that the same appears to be obviously false for the reason that the hospital authorities have no role in any case being lodged and obviously if such an incident had happened, the party concerned had to move either before the local police or the Court. Learned counsel submitted that even in the so called *Panchayati* it has not been stated as to for what purpose the *Panchayati* was being held and, thus, it is of no consequence. Learned counsel pointed out that from the *panchnama* also, it is clear that it only related to dispute of abuse between the parties (*jhagra, jhanjhat and gaali galauch*).

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on anticipatory bail.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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