

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82892 of 2019

Arising Out of PS. Case No.-558 Year-2019 Thana- LAKHISARAI District- Lakhisarai

Chhotu Kumar @ Suraj Kumar, Son of Pappu Saw, Resident of - Naya Bazar,
Bazar Samiti, Ward No. 31, P.S.- Kabaiya (Lakhisarai), District- Lakhisarai.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Pankaj Kumar Sinha, Advocate Mr. Rabi Bhushan, Advocate Ms. Rakhi Kumari, Advocate
For the Informant	:	Mr. Mukesh Kumar, Advocate Mr. Bijay Kumar Pandey, Advocate
For the Opposite Party/s	:	Mr.Navin Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-03-2020 Heard learned counsel for the petitioner, learned
counsel representing the informant and learned A.P.P. for the
State.

Petitioner in the present case is seeking regular bail in
connection with Lakhisarai (Kabaiya) P.S. Case No. 558 of 2019
registered for the offences punishable under Sections 406, 379,
366 of the Indian Penal Code and later on Sections 363, 376, 34
of the Indian Penal Code was also added.

Learned counsel for the petitioner submits that
according to the informant on 11.07.2019 his wife had gone to
the hospital at Jamalpur along with her mother Urmila Devi but
she did not return home. It is alleged that on query made by the



informant his mother-in-law informed that while they were returning from the hospital near K.R.K. school this petitioner along with two other unknown persons came there and took away the wife of the informant and thereafter she had not returned. It is the case of the informant that his marriage was solemnized with the victim lady seven years back and they have a daughter out of the said wedlock who is four years old. The informant himself alleged that his wife had gone along with the jewelries worth Rs. 50,000/- and some cash as also document of land and the informant alleged that she had done it with an intention to create a bad reputation of the informant. He has further alleged that this petitioner used to come to his house in his absence and whenever he objected to the same the petitioner and the wife of the informant both were quarreling with the informant.

Learned counsel for the petitioner submits that from the narration present in the First Information Report itself it will appear that wife of the informant had left the house on her own volition and she had not returned home on 11.07.2019. Four days after that i.e. on 15.07.2019 the informant lodged this F.I.R. It is submitted that in her 164 Cr.P.C. statement the victim lady has alleged that this petitioner was establishing physical



relationship with her but from the materials present in the case diary it is evident that the petitioner and the victim lady were living together with consent and it is only after the present F.I.R. was lodged she came back and then the statement under Section 164 Cr.P.C. has been procured by tutoring.

Learned counsel for the informant as well as the State have opposed the prayer for regular bail of the petitioner as according to them the statements under Section 164 Cr.P.C. are sufficient to take a view that this petitioner had established physical relationship with the wife of the informant forcibly and thereby committed rape on her. Admittedly, the wife of the informant is adult.

Considering the facts and circumstances of the case, wherein from the F.I.R. itself it appears that the informant was aware of the relationship between the petitioner and his wife, he was objecting to the said relationship but his wife was also quarreling with him on such objection and it is the case of the informant that his wife had left her home with all jewelries, cash and document etc. on 11.07.2019 and thereafter from the particular market place she went along with the petitioner but her mother did not raise any objection to the same and she did not give any information to the informant in this regard but it is



only when the informant enquired about his wife the mother of the victim lady informed him that she had gone with the petitioner, considering the kind of allegations present in the F.I.R. and then the materials on the record, let the petitioner, who is in custody in connection with this case since 25.09.2019 and investigation against him is complete, there is no submission that his release is likely to interfere with the course of trial and there is no chance of tampering with the evidence, be released on bail in connection with Lakhisarai (Kabaiya) P.S. Case No. 558 of 2019 on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from



disclosing such facts to the Court or to any police officer or
tamper with the evidence.

(Rajeev Ranjan Prasad, J)

vats/-

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