

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38926 of 2023

Arising Out of PS. Case No.-38 Year-2021 Thana- TRIVENIGANJ District- Supaul

KUNDAN KUMAR @ KUNDAN SAH SON OF DAROGI SAH VILLAGE
MIRJAWA WARD NO 10 P S TRIVENIGANJ DISTRICT SUPAUL

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Singh, Sr. Adv. Mr. Bhaskar Shankar
For the Opposite Party/s	:	Mr. Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 28-07-2023 1. Heard learned Senior Counsel for the petitioner and learned Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out of Triveniganj Police Station Case No. 38 of 2021, dated 13.02.2021, disclosing offences punishable under Sections 376-D/341/323/504/506/144/149 of the Indian Penal Code.
3. The prosecution case, as per the First Information Report, is that on 23.12.2020, the informant along with her husband was going on a motorcycle and they were intercepted by the accused persons, including the petitioner, and on the point of pistol and knife, the accused persons took her husband towards a canal and



took the informant to the other side of canal, where co-accused Pintu Sah committed rape upon her and thereafter the petitioner also committed rape upon her.

4. Learned Senior Counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to land dispute inasmuch as both the parties are members of the join family, having common ancestor. He further submits that as per the family arrangement, 6 bighas and 12 kathas of land was to be returned by the husband of the informant, out of which he has returned only 4 bighas and 6 kathas of land and upon being asked about the transfer of the balance land, the petitioner and others have been implicated in this false case based upon concocted story. He further submits that there is inordinate delay of more than two months in lodging of the First Information Report inasmuch as the occurrence has taken place on 23.12.2020 and the First Information Report has been lodged on 13.02.2021. He further submit that the police has not submitted charge sheet under Section 376-D of the Indian Penal Code; rather a charged sheet has been submitted under Sections 341/447/323/354/504/506/34 of the Indian Penal Code.



5. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the fact that both the parties are members of the join family, having common ancestor, there is land dispute between them, there is inordinate delay of more than two months in lodging of the First Information Report and the police has not submitted charge sheet under Section 376-D of the Indian Penal Code, I am inclined to grant the petitioner privilege of anticipatory bail.
6. This application is, accordingly, allowed.
7. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, 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 learned Chief Judicial Magistrate, Supaul, in connection with Triveniganj Police Station Case No. 38 of 2021, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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