

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7334 of 2024

Arising Out of PS. Case No.-196 Year-2023 Thana- HARLAKHI District- Madhubani

RAKESH YADAV @ RAKESH KUMAR YADAV S/O MADAN YADAV
R/O VILLAGE- SOHPUR, P.S- HARLAKHI, DISTT.- MADHUBANI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akash Raj

For the Opposite Party/s : Mr. Atul Chandra

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 01-03-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 323, 341,
354B, 452, 504, 506, 376 and 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the
petitioner has antecedent of one case. It is next submitted that
the said case was instituted by the sister-in-law (*Bhabhi*) of the
present informant in which police after investigation submitted
final form. It is further submitted that informant thereafter
implicated the petitioner in the instant case with an allegation
that on 09.07.2023 at 11:00 PM while informant was sleeping in
her room when the petitioner entered and started disrobing her
and thereafter made attempt to establish physical relationship
when she woke up and raised alarm, hence, her son came and



the petitioner was caught however he managed to flee.

4. Learned counsel for the petitioner next submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the informant does not allege that the petitioner committed rape rather allegation is of attempt, as such, the FIR when it was initially instituted, was not instituted under Section 376 of the IPC. It is further submitted that during the course of investigation, Section 376 of the IPC came to be included when *prima facie* no allegation of rape is borne out from the allegation as alleged. It is also submitted that there is a delay of 10 days in instituting the FIR. It is further submitted that during the course of investigation, it also transpired that informant who is a married lady was in relationship with the petitioner prior to her marriage which continued. It is next submitted that from perusal of the allegation as alleged in the F.I.R., it would manifest that petitioner came to the house of the informant with her consent but when her son woke up, the present false case came to be instituted.

5. The learned counsel for the petitioner very fairly, at this stage, submits that process under Section 82 Cr.P.C. has been issued against the petitioner but then the same was issued while petitioner was availing his remedies available in law



before the learned District Court, it is thus submitted that petitioner was not absconding rather was availing his remedies available in law, hence, the learned Trial Court ought not to have issued process under Section 82 of the Cr.P.C.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

7. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Harlakhi P.S. Case No. 196 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. Accordingly, the present anticipatory bail application stands allowed.

(Satyavrat Verma, J)

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