

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17416 of 2024

Arising Out of PS. Case No.-348 Year-2023 Thana- ALOULI District- Khagaria

Jitendra Kumar Son Of Late Kedar Yadav Resident Of Village -JHAKHRA
Ward No. 8 P.S.- Alouli District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S.D.Sanjay, Sr. Adv. Mr. Mohit Agarwal, Adv. Mr. Lokesh Kumar, Adv. Mr. Vishal Kumar, Adv. Mrs. Sushmita Mishra, Adv. Mr. Sukesh Ranjan, Adv.
For the Opposite Party/s	:	Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 26-06-2024 1. Heard Mr. S.D. Sanjay, learned Senior counsel for
the petitioner and learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offence punishable under Sections 376 and
304 of the Indian Penal Code.

3. Learned Senior counsel for the petitioner submits
that petitioner is a person with clean antecedent and has been
falsely implicated in the instant case by the informant. It is next
submitted that petitioner and father of the informant are agnets
and are having dispute relating to property. It is next submitted
that informant alleges that fardbeyan of the informant was
recorded at Sadar Hospital, Begusarai on 14.07.2023, wherein



she has alleged that about 8 months back, when she had gone to the field, when petitioner who in relation is her uncle committed rape but then she did not inform about the occurrence to her parents, thereafter, it is alleged that she was married to Nitish Kumar on 25.06.2023 and when she went to her matrimonial home she started feeling unwell and on examination by the doctor, it transpired that she was 8 months pregnant, thereafter, she was admitted in a hospital on 10.07.2023, when the doctor informed that the child died in the womb.

4. The learned Senior counsel submits that it absolutely does not stand to reason that if the informant was raped by the petitioner about 8 months back from the date when her fardbeyan was recorded, why she did not inform her parents. It is also submitted that if 8 months is reckoned from 14.07.2023, it would be November, 2022. It is further submitted that had the informant been raped on account of which she became pregnant then her menstruation cycle would have stopped but then from perusal of the allegation, it manifests that no such allegation is alleged. It is next submitted that thereafter the informant was married to Nitish on 25.06.2023 i.e. after nearly 7-8 months of the occurrence. It is further submitted that had the informant conceived on account of rape by the



petitioner, as alleged, then by the time she was married to Nitish she would have been carrying pregnancy of nearly 8 months. It is also submitted that pregnancy cannot be concealed and it absolutely defies all logic, wisdom and reasonable human behaviour that the parents of the informant were not aware that the informant was carrying 8 months pregnancy at the time of marriage. It is submitted that by the very sight of a woman carrying pregnancy she gets noticed, as such, it does not appear probable that her husband at the time of marriage did not notice the pregnancy. It is further submitted that apart from what has been alleged by the informant in the F.I.R, no material has transpired during the course of investigation even remotely connecting the petitioner with the offence. It is submitted that the informant subsequently on 17.07.2023 died but then neither her blood sample, hair or the hair and blood sample of the child was preserved for carrying out D.N.A. test in order to establish the allegation.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that a counter affidavit has been filed on behalf of the Superintendent of Police, Begusarai but then is not in a position to rebut the submission of the learned Senior counsel appearing on behalf of



the petitioner and also his submission that sample of blood, hair etc were not preserved for carrying out D.N.A. test. The learned APP at this stage submits that in the event, if the privilege of anticipatory bail is granted to the petitioner, the petitioner may tamper with the evidence or abscond, on which, the learned Senior counsel for the petitioner submits that petitioner will not abscond rather will co-operate in the investigation.

6. 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 Court below 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 Alouli P.S. Case No.348/2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned trial court bringing to his notice that the petitioner despite giving assurance to this court is not co-operating in the investigation in that event the learned trial court shall be at



liberty to cancel the bail bonds of the petitioner after recording
reason.

(Satyavrat Verma, J)

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