

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76641 of 2023

Arising Out of PS. Case No.-58 Year-2015 Thana- KURSAILA District- Katihar

DR. SEEMA MISHRA @ SEEMA MISHRA WIFE OF DR. NAGESH KUMAR JHA RESIDENT OF MOHALLA - KALIBARI BINODPUR, P.S. - KATIHAR TOWN, DISTRICT - KATIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 19-03-2024 Heard Mr. Krishna Prasad Singh, learned Senior

Counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends her arrest in connection with Kursela P.S. Case No. 58 of 2015 (G.R. No. 1364 of 2015) for the offence registered under sections 376, 315, 341, 342 and 120(B) of the Indian Penal Code lodged on 25.05.2015 by the informant, Khushbu Kumari.

3. As per the prosecution story, the complainant alleged that she had gone to the house of Jeetan Sah where he committed rape. The complainant further complains that this was repeated when she again went to fetch water. It resulted into her pregnancy and then she was taken to the clinic of this petitioner where her pregnancy was aborted. As the Jeetan Sah refused to marry her and/or provide any maintenance, the complaint.

4. Learned Senior Counsel for the petitioner submits that posing as husband and wife and providing certificate to



justify abortion, the pregnancy is terminated and the same cannot be the basis for driving a Doctor in a criminal case. However, in the present case, even the same fact could not be ascertained by the police whether the accused person including the complainant came to her nursing home and in that background, the final form was submitted, so far as this petitioner is concerned while charge sheet submitted against the accused persons on 29.10.2016.

5. Seven years later, the learned Magistrate differed with the police and took cognizance against the petitioner on 24.01.2023 forcing her to prefer anticipatory bail application.

6. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that complaint clearly shows that she was taken to the petitioner's clinic where abortion took place.

7. Considering the aforesaid facts as also that the police submitted final form, the lady is a Doctor, the allegation of abortion is against her, main allegation of rape is against accused, Jeetan Sah, she do not have criminal antecedent, this Court is inclined to extend her privilege of anticipatory bail.

8. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the



order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI cum Special Judge POCSO, Katihar in connection with Kursela P.S. Case No. 58 of 2015 (G.R. No. 1364 of 2015) subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of her bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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