

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No. 2868 of 2012**

Mihir Kumar Saha @ Mihir Chandra Saha.... Petitioner

---Versus---

The State of Jharkhand Opposite Party

CORAM: HON'BLE MRS.JUSTICE JAYA ROY

For the Petitioner : Mr. Raja Ravi Shekhar Singh, Advocate
For the State : A.P.P.

2 / 28.09.2012 Heard the counsel for the petitioner and the counsel for the State.

The petitioner is apprehending his arrest in this case registered under Sections 376 of the Indian Penal Code, corresponding to G.R. No.419 of 2012, pending in the court of Additional Chief Judicial Magistrate, Rajmahal.

Counsel for the petitioner has submitted that the allegation against him in the F.I.R is that he has made sexual relation with the informant on the assurance that he will marry her. It is further contended that with the consent of the informant the petitioner has made sexual relation with her, therefore, the case will not come under Section 376 of the I.P.C., it may come under Section 420 of the I.P.C., the offence of cheating.

Counsel for the State has submitted that informant has stated in the F.I.R. that on assurance of marriage, the petitioner has made sexual relationship and thus he had committed the offence under Section 376 of I.P.C.

From the contents of the F.I.R. I find that admittedly the petitioner has made sexual relation with the consent of the informant, therefore, *prima facie*, ingredients of the Section 376 of the I.P.C. cannot be made against the petitioner.

Considering all these aspects, I direct the petitioner to surrender before the trial court within a period of one month from the date of this order (28.9.2012). If the petitioner surrenders within the said period, the trial court is directed to release the petitioner namely Mihir Kumar Saha @ Mihir Chandra Saha on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of the like amount each to the satisfaction of the the court below/ Additional Chief Judicial Magistrate, Rajmahal, in connection with Rajmahal P.S. Case No. 231 of 2012, corresponding to G.R. No.419 of 2012, subject to the conditions that one of the bailors will be local resident having immovable property within the jurisdiction of the district concerned and subject to the conditions laid down under Section 438(2) Cr. P.C. and further subject to the condition that the petitioner will appear before the trial court at least once in a month on the date fixed for trial till the conclusion of the trial.

(Jaya Roy, J.)

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