
(2020) 11 JH CK 0129
In the Jharkhand High Court
Case No : A.B.A. No. 5265 Of 2020

Yad Ali Ansari

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 02-11-2020

Acts Referred:

Indian Penal Code, 1860 — Section 376(2)(F), 376(D)
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2020) 11 JH CK 0129

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Sanjay Kr. Pandey, P.K. Appu

Final Decision : Dismissed

Judgement

Heard the parties through video conferencing. Learned counsel for the petitioner personally undertakes to remove the defects as pointed out by the stamp reporter within two weeks after the lockdown period is over.

In view of the personal undertaking of the learned counsel for the petitioner, the defects pointed out by the stamp reporter are ignored for the present.

Apprehending his arrest, the petitioner has moved this Court for grant of privilege of anticipatory bail in connection with Garhwa (Mahila) P.S. Case

No.02 of 2020 (G.R. No. 510 of 2020) registered under sections 376 (2) (F) and 376 (D) of the Indian Penal Code.

The Learned counsel for the petitioner submits that the allegation against the petitioner is that the petitioner along with co- accused persons has

committed gang rape upon the victim. It is further submitted that the allegation against the petitioners are all false and the victim in her statement

recorded under Section 164 Cr.P.C., has stated that the rape was only committed

upon her by Vinod Paswan. Hence, it is submitted that the petitioner be given the privilege of anticipatory bail.

Learned Addl. P.P. on the other hand vehemently opposes the prayer for grant of anticipatory bail and submitted that the provision under Section 376

D of Indian Penal Code itself envisages that even if the victim is raped by one person in furtherance of common intention of others then each of those

persons shall be deemed to have committed the offence of rape and shall be punishable with Rigorous Imprisonment for a term which shall not be less

than twenty years, but which may extend to life, hence commission of the actual sexual act is not a sine-qua- non for impleading any person in a case

involving the offence punishable under Section 376 D of Indian Penal Code and keeping in view the heinous nature of the offence, the custodial

interrogation of the petitioner is required during the investigation of the case to ascertain the details of the occurrence. Hence, it is submitted that the

petitioner ought not to be given the privilege of anticipatory bail.

Considering the serious nature of allegation against the petitioner of committing gang rape upon the victim and the requirement of his custodial

interrogation during the investigation of the case, this Court is of the considered view that this is not a fit case where the above named petitioner be

given the privilege of anticipatory bail. Accordingly, his prayer for anticipatory bail is rejected.