

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32108 of 2015

Arising Out of PS.Case No. -76 Year- 2014 Thana -GARKHA District- SARAN

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1. MAQBOOL ALAM @ MAQBUL ALAM son of Ahmad Husasain,
resident of village- Rangilo Tola, Hakma, P.S.- Garkha, District- Saran at
Chapra

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. M.Dayal(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 12-08-2015 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is in custody since 14.08.2014 in connection
with Garkha P.S. Case No. 76/2014 registered for the offences
punishable under Sections 366, 376 of the Indian Penal Code and
Section 67 of the Immoral Traffic Act. Earlier the bail application
of the petitioner was rejected with reference to the statement made
by the girl under Section 164 Cr. P.C.

Learned counsel for the petitioner has renewed his prayer
for bail on the grounds that there is no material in the case diary
and not even a single independent witness has come forward
stating that act of rape and prepration of C.D. was in fact within
the petitioner's cowshed and the alleged incriminating C.D. was

prepared with the active involvement of the petitioner causing perpetual prejudice to the victim informant's daughter.

Learned counsel for the petitioner submits that the petitioner's name surfaced in the confessional statement of one Samshul Haque who is alleged to have circulated the C.D. from his shop 'Shilpi Communication'. He further submits that the confessional statement of a co-accused made before the Police has no evidentiary value and the petitioner cannot be prosecuted solely on the said basis.

In order to ascertain the correctness of the submissions advanced and the grounds mentioned in this bail application, case diary has been called for which has since been received.

Learned counsel for the State has strenuously urged before this Court that in several paragraph of case diary and also the confessional statement made before the Police, the name of the petitioner has surfaced stating that the witnesses have stated that the alleged C.D. were prepared in the cowshed belonging to the petitioner. But on perusal of the same, it appears that whatever statements have been made by the witnesses have emanated from other sources and are based on versions of other witnesses.

Learned counsel has also brought on record an order dated 10.12.2014 passed in Cr. Misc. No. 48470 of 2014 in which one

Shoyeb Akhtar, who is alleged to have circulated the same C.D. has been extended the privilege of regular bail by this Court.

Considering the period of custody of the petitioner and that there is no further cogent material available in the case diary save and except the confessional statement of the co-accused and also because the petitioner has no criminal antecedent, let the petitioner Maqbool Alam be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Chapra in connection with Garkha P.S. Case No. 76/14.

(Anjana Mishra, J)

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