

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13871 of 2015

Arising Out of PS.Case No. -36 Year- 2015 Thana -NAUTAN District-
WESTCHAMPARAN(BETTIAH)

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1. VIKASH KUMAR SAH@VIKAS KUMAR son of Saheb Sah Resident
of Village- Dhoom Nagar, Purwari, Tola, P.s.,- Nautan ,District- West
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma, Advocate

For the Opposite Party/s : Mr. Madhuri Lata(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-07-2015

Heard learned counsels for the petitioner, informant

and the State.

The petitioner is languishing in custody since
08.02.2015 in a case registered for the offences punishable under
sections 8 and 10 the Protection of Children from Sexual Offences
Act, 2012 (hereinafter referred to as the "Act").

It is alleged that while 13 years old sister of the
informant went outside to ease then the petitioner caught her and
tried to take her in a sugar cane field and tore her clothes. On
alarm being raised, the villagers came when petitioner was caught
by the villagers.

It is submitted by learned counsel for the petitioner
that even assuming the accusation the act committed by the



petitioner does not come within the purview of 'sexual assault' as defined under section 7 of the Act as the accusation is not of touching private part or breast and the act does not suggest that petitioner has any sexual intent. Neither the tore cloth was given to the police nor medical examination of the victim was conducted. The offence under section 10 of the Act is also not made out as the act of the petitioner does not come within the definition of 'aggravated sexual assault' as defined under section 9 of the Act. The 'aggravated sexual assault' is defined under section 9 of the Act the precondition of constituting offence of aggravated sexual assault is that offender has to be a police officer, member of security or armed forces, member of management, or staff of private or government hospitals, educational institution or religious institution. In the present case the petitioner does not come in any of such categories as he claims to have been working as mason at Chandigarh. The occurrence took place on 07.02.2015 at 9 Am but the FIR was registered on the same day at 04.30 pm. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Considering the aforesaid fact, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount

each to the satisfaction of learned 1st Additional District and Sessions Judge, Bettiah, West Champaran in connection with Nautan P.S. Case No. 36 of 2015.

Ashwini/-

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(Dinesh Kumar Singh, J)