

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18028 of 2015

Arising Out of PS.Case No. -74 Year- 2014 Thana -MAHILA P.S. District- BHAGALPUR

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1. Amit Kumar Mandal @ Amit Mandal Son of Sri Sadhu Mandal@Sahdev Mandal resident of village- Bhuriya, Police Station- Sanhaula, district- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Opposite Party/s : Mr. Dr. Kr.Uday Pratap(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 24-08-2015

Heard both sides.

Learned counsel for the petitioner is permitted to make necessary correction in the prayer portion of the petition.

The petitioner seeks bail in a case registered for the offences punishable under sections 376, 313 & 420 of the Indian Penal Code.

The victim alleged that the petitioner on the pretext of marrying with her established physical relation. The victim became pregnant. The petitioner provided her medicine causing miscarriage and thereafter the petitioner refused to marry with her.

It is submitted that the victim established



physical relation. There is no evidence to show that the petitioner ever established physical relation with the victim. On account of land dispute, the petitioner has falsely been implicated in this case. The victim was examined by the doctor in which the victim disclosed her age to be 19 years. Even in the discharge slip attached with the F.I.R. at page 13, the victim disclosed her age as 19 years but the same was later on made as 17 years. The doctor assessed the age of the victim below 18 years. The Doctor has not properly assessed the age of the victim and he can give only approximate age of the victim on the basis of ossification test. It is further submitted that almost all the witnesses have stated that the petitioner was implicated on account of land dispute.

Learned counsel for the informant as well as learned A.P.P., however, opposed the prayer for bail and submitted that the victim is admittedly a minor girl aged about 17 years and on the pretext of marriage, the victim was aborted. She was treated in the hospital. There appears that the victim continued to have physical relation with the petitioner on the assurance of the petitioner to marry with her. The doctor assessed the age of the victim below 18 years but it appears that when the victim was admitted in the J.L. N.M.C.H., Bhagalpur she disclosed her age as 19 years. Even in the discharge slip firstly her age was written as

19 years but later on the same was made 17 years. The victim appears to be a consenting party. The petitioner is in jail since 17.11.2014.

Considering the facts aforesaid, the petitioner above named, is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge Ist-cum-Special Judge, POCSO Act, Bhagalpur in connection with Bhagalpur Mahila P.S. Case No. 74 of 2014 corresponding to Sessions Trial No. 235 of 2015.

(Prabhat Kumar Jha, J)

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