

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11869 of 2015

Arising Out of PS.Case No. -27 Year- 2014 Thana -MAHILA P.S. District- SAHARSA

=====

Faiyaz Alam, S/o Md. Aslam, Resident of Village Line Bazar, P.S.
Khajanchi Hat, District Purnea.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha

For the Opposite Party/s : Mr. Binod Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 26-05-2015

Heard.

The petitioner seeks bail in a criminal prosecution registered under Sections 376D/506/34 of the Indian Penal Code as also under Section 6 of the Protection of Children from Sexual Offences Act.

Learned counsel appearing on behalf of the petitioner submits that though the case was instituted for an offence under Section 376D of the I.P.C., but, on close of investigation, the charge-sheet has been submitted only for an offence under Sections 376/511 I.P.C. as also under Section 3(1)(x)(xi) and (xii) of the SC/ST (Prevention of Atrocities) Act. According to him, the prosecution story stands contradicted on the basis of the materials available on record. It is further submitted that even in her statement recorded under Section 164 Cr.P.C., the victim girl has not alleged about the commission of rape upon her. The petitioner is said to be in judicial custody since 10.10.2014 and is also said to be the first offender.

Learned Addl. P.P. appearing on behalf of the State of Bihar though has opposed the prayer for bail, but has not disputed

the aforesaid submissions.

Be that as it may, in the facts and circumstances of the case, the prayer for bail of the petitioner is allowed. The petitioner above named is directed to be released on bail on furnishing bail bond of Rs.25,000/- with two sureties of the like amount each to the satisfaction of the learned 1st A.D.J.-cum-Special Judge, Saharsa in connection with Saharsa Mahila P.S.Case No.27 of 2014, subject to the conditions that:

- (a) One of the bailors must be government servant or close family member of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,
- (b) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned;
- (c) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

Arvind/-

U		T	
---	--	---	--

(Birendra Prasad Verma, J)