

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8024 of 2016

Arising Out of PS.Case No. -258 Year- 2015 Thana -MADHUBAN District-
EASTCHAMPARAN(MOTIHARI)

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Ashok Singh, son of Late Asharfi Singh resident of village- Bajitpur, P.S.-
Madhuban, District- East Champaran.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Binod Kumar Singh, Advocate
Mr. Rajesh Kumar Singh, Advocate.
For the Informant : Mr. J.K. Giri, Advocagte.
For the Opposite Party : Mr. A.K.Choudhary(APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 11-05-2016 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

Petitioner apprehends his arrest in connection with
Madhuban P.S. Case No. 258 of 2015 for the offence punishable
under Section 376 of the Indian Penal Code and Section 4 and 6 of
the Protection of Children from Sexual Offences Act, 2012.

The Prosecution case is that the informant Sita Devi
gave her written application to the S.H.O. Madhuban P.S. alleging
therein that on 13.08.2015 at 3 P.M., her daughter Pushpa Kumari
aged about 13 years was sleeping in her house in the meantime,
the petitioner finding her alone entered into her house and
committed rape with her and threatened if the matter is disclosed

they will be killed.

It has been submitted by the learned counsel for the petitioner that he has committed no offence and has been falsely implicated in the aforesaid case, as being neighbours, there were dispute between them. He further submits that there is no eye-witness to the alleged occurrence and he has a clean antecedent. He further submits that independent witness at Para 13 of the case diary has not supported the prosecution case. The age determination has been done as 15 ½ and 16 ½ years and in her statement under section 164 of Cr.P.C. her age before the Magistrate has been assessed as 18 years, as such, no case under section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 will be applicable.

However, learned counsel appearing for the informant submits that all the independent witnesses, have stated that the mother of the victim has named the petitioner as having committed the overt act. He further submits that the victim girl also in her statement under section 164 of the Cr.P.C. before the Magistrate has named the petitioner. He further submits that although the medical report does not say that there was recent sexual contact, but the said medical examination was done one day after the alleged occurrence.

However, the learned APP for the State submits that petitioner is named in the First Information Report, hence opposes the prayer for bail.

Be that as it may, since the victim girl under Section 164 of the Cr.P.C. named the petitioner, I am not inclined to grant the privilege of anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail stands rejected.

(Nilu Agrawal, J.)

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