

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7103 of 2016

Arising Out of PS.Case No. -1291 Year- 2013 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Gorakh Rai son of Late Parmeshwar Rai, Resident of village- Kathaulia,
P.S. Bidupur, District- Vaishali at Hajipur (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. Tikari Rai son of Late Mahendra Rai, Resident of village- Kathaulia,
P.S. Bidupur, District- Vaishali at Hajipur (Bihar)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar

For the Opposite Party/s : Mr. Surendra Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 28-03-2016 Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner is apprehending his arrest in
connection with Protest-cum-Complaint Case No.C-1291 of
2013(Trial No. 7517 of 2015) for the offences under Section 377
of the Indian Penal Code.

It is alleged that while the son of the complainant,
namely, Tuntun Kumar aged about 12 years was going to Diara
for grazing buffalo, the petitioner caught him and took him away
on the pretext of giving fish and in a lonely place after opening
his paint committed unnatural offence with the victim. His son
come back and narrated about the occurrence and the complainant

filed a case which was registered as Bidupur P.S.Case No. 271/2011 but the I.O. after investigation, has found the case false as a result of which the complaint-cum-protest petition has been filed.

It is submitted by learned counsel for the petitioners that the petitioner has got no criminal antecedent. An FIR was instituted against the petitioner for the offences under Section 377 IPC vide Annexure-2. The alleged date of occurrence is said to be 15.10.2011. The case was instituted on 21.10.2011 but no explanation has been given in respect to the delay. The victim was examined by the doctor who did not find any injury as alleged in the FIR. The said injury report is Annexure-4 to the present application. The police submitted final form against the petitioner which is Annexure-3. A protest-cum-complaint Case was filed on behalf of the informant and on the basis of the same the prosecution has been initiated against the petitioner. In the course of enquiry under Section 202 Cr.P.C. the Mukhiya was examined as Court Witness No. 1, who has not supported the allegations levelled against the petitioner.

On behalf of the State and by learned counsel for the informant, it has been submitted that the petitioner is named in the complaint case and there is direct allegation against him.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released on bail in the event of his arrest or surrender before the learned court below within a period of six weeks from today in connection with Protest-cum-Complaint Case No. C-1291 of 2013 (Trial No. 7517 of 2015) on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Smt. Niharika, Judicial Magistrate, 1st Class, Vaishali at Hasjipur, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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