

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39863 of 2016

Arising Out of PS.Case No. -11 Year- 2016 Thana -MAHILA P.S. District- SITAMARHI

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1. Amir Khan son of Md Mansoor Khan Resident of Village- Talkhapur
(Dumra Kothi), P.S. & District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.N. P. Sinha, Sr. Advocate
Mr. Rohit Kumar

For the Opposite Party/s : Mr. Sri Ajay Kumar -2, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 02-12-2016 Heard both sides.

The petitioner seeks bail in Sitamarhi Mahila P.S.
case No. 11 of 2016 under Section 376 and other Sections of the
Indian Penal Code.

The victim made her statement in Sadar Hospital,
Sitamarhi that on 05.05.2017 at 7 in the night she had gone to
purchase medicine for her mother and while she was returning two
persons caught her and dragged her inside the bamboo bush and
they committed rape with her. The victim named the petitioner,
Amir Khan, and Md. Jafar. She further alleged that she became
unconscious and when she got consciousness, after two hours, she
came and narrated the story to her father and thereafter she came



to hospital for treatment.

Sri S.N.P. Sinha, the learned senior counsel for the petitioner, submits that except the statement of victim there is no material to show that the victim was raped by the petitioner and one another. The doctor opined that it is very hard to say whether rape was committed or not. During the course of investigation, the witnesses have stated that victim is of bad character and the I.O. from his sources came to know that due to enmity, arises out of election dispute, the victim filed this case.

It appears that victim herself clearly stated about the occurrence and after two hours of the occurrence she came to her house and went to hospital. The victim narrated the entire story to her parents but the I.O. instead of taking statement of the parents of the victim started taking statement of the villagers, who disclosed about the bad character of the victim but there is nothing on record to show that victim has ever lodged any other case. The victim in her statement under Section 164 of the Cr. P. C. reiterated the same things and it was the duty of the I.O. to get examined the accused under Section 53A of the Cr. P. C. immediately after his arrest but the I.O., for the reasons best known to him, did not get examined the accused by doctor.

Considering the nature of allegation made against the



petitioner that he committed rape with the victim, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

If the case is committed to the Court of Sessions, the learned Sessions Judge or learned Additional Sessions Judge, in seisin of the case, shall make efforts for conclusion of trial, preferably, within one year.

(Prabhat Kumar Jha, J)

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