

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52571 of 2016

Arising Out of PS.Case No. -38 Year- 2016 Thana -KEOTI District- DARBHANGA

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1. Bishwanath Mahto son of Nageshwar Mahto resident of village Dome
P.S. Keoti District Darbhanga. Petitioner/s

Versus

1. The State of Bihar. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath Jha, Advocate

For the Opposite Party/s : Mr. Satyavarat Verma, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

2 20-12-2016 Heard learned counsel for the petitioner as well as

learned APP.

Petitioner is the sole person who had committed rape

upon a minor.

It has been submitted on behalf of the petitioner that

there happens to be inconsistency in between narration having

been made under written report and the statement of the victim

under Section 164 of the CrPC. It has further been submitted that

the doctor had not found any external or internal injury. That

being so, the factum of rape is not at all substantiated. Apart from

this, it has also been submitted that there happens to be

unexplainable delay in launching the case, so the cumulative effect

happens to be nullifying the veracity of the prosecution version.

Furthermore, it has also been submitted that petitioner is under

custody since 20.08.2016, hence he be released on bail.



On the other hand, learned APP opposed the prayer and submitted that the delay is itself explained which is evident from the perusal of the written report. Furthermore, considering the age of the victim, the minor inconsistency without affecting the major offence which she faced at the hands of the petitioner is found duly substantiated. It has further been submitted that the doctor had found hymen torn which, in the background of age of the victim might be on account of some sort of penetration which, is found duly satisfying the definition of rape as provided under Section 375 IPC.

In the aforesaid background, prayer of the petitioner for bail is rejected.

(Aditya Kumar Trivedi, J)

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