

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15959 of 2016

Arising Out of PS.Case No. -136 Year- 2015 Thana -KHUTAUNA District- MADHUBANI

1. Sanjay Kumar Singh son of Kamal Mahto @ Kamal Deo Mahto, resident of village- Patharahi Makari Tole, P.S.- Ladaniya, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Advocate

For the Opposite Party/s : Mr. Lallan Kumar (App)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 26-05-2016 Heard learned counsel for the petitioner, learned counsel appearing on behalf of the informant and the learned A.P.P. for the State.

The petitioner is languishing in jail custody since 20.02.2016 in a case registered for offences punishable under Sections 341, 323, 354 (B), 376, 511/34 of the I.P.C. and 8 of the POSCO Act.

The prosecution case is that one Khushbu Kumari, aged about 8 years, has alleged in her fardbeyan that in the night of 13-14th November, 2015 she along with her mother had gone to fair and thereafter she went to see drama and slept there. When in late night she woke-up and found that Lalita Devi (neighbor) was carrying her in her lap along with petitioner, Sanjay Kumar Singh

and brought the victim near bamboo clump and heap of straw and pushed the victim on earth and the petitioner tried to commit rape upon her. When the victim girl tried to raise alarm, they used to slap her and also pressed her mouth and neck as a result of which the victim became unconscious. After some time the victim regained and found herself alone and she came in the shop of her mother and narrated the whole incident, who informed her father and grand mother and thereafter, she was medically examined.

It has been submitted by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the aforesaid offence. He further submits that there is a long drawn enmity between the petitioner's side and the informant's side and the minor girl herself has stated that and her age is eight years.

It has also been stated that the victim girl has herself stated that her parents are on inimical terms with the petitioner's side. He further submits that medical Board, so constituted for examination of the victim girl, has not found any major injuries and opined that no rape was committed on the victim. There is small swelling on the left side of upper lip. He further submits that the POSCO Act is not applicable and the allegation of committing rape has been found to be false by the medical Board.

However, learned counsel for the informant submits that the petitioner is named in the F.I.R. as he is alleged to have committed the aforesaid offence, as stated by the minor girl (victim) in her fardbeyan and on such heinous crime, opposes the prayer for bail.

However, learned A.P.P. for the State submits that the victim is minor and the Medical Board has supported the prosecution case, hence, opposes the prayer for bail.

Since, the Medical Board has not supported the prosecution case, let the above named petitioner, Sanjay Kumar Singh is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Madhubani in connection with G.R. No. 61/2015 arising out of Khutauna P.S.Case No. 136/2015.

(Nilu Agrawal, J)

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