

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14255 of 2016

Arising Out of PS.Case No. -19 Year- 2016 Thana -JAKKANPUR District- PATNA

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Bipin Kumar

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Shashank Shekhar, Advocate.

For the Opposite Party : Mr. Manish Kumar No.2 (APP)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

3 31-05-2016

The petitioner apprehends his arrest in relation to Jakkanpur P.S. Case No. 19 of 2016 registered under Section 366(A) of the Indian Penal Code and Section 3(x) of SC/ST (Prevention of Atrocities) Act, 1989.

It appears that on 03.02.2016 an F.I.R. was lodged by the informant, wherein it has been alleged that his daughter, who was a minor, aged about 17 years had gone to tuition but not returned. He apprehended that the petitioner may have kidnapped her. As per case diary, on the next morning, this case reveals that on the very next morning at about 8.00 A.M., the informant turned up at Police Station along with his daughter and informed the police that his daughter was returned. On perusal of the case diary, it is apparent that the statement of the girl was not recorded under Section 161 of the Cr.P.C, by the police. After six days, the girl was sent to the Magistrate to get her statement recorded under



Section 164 of the Cr.P.C and there she alleges that she had been forcibly taken by the petitioner in a car, after ensuring that she was unconscious, she was taken to some place in a hotel, where she regained her consciousness. The petitioner is alleged to have raped her thrice in the night and left her at Jehanabad town in the morning, from where she came on her own, back to her home at Patna.

Mr. A.K.Thakur, learned Senior counsel appearing on behalf of the petitioner submits that the entire story is a false story built up as could be evident from undisputed fact. The family members as per case diary, clearly states that the petitioner and the girl in question were intimate and knew to each other from before. When the girl came back home and was taken to Police Station, her statement was not recorded. She was not sent immediately for medical examination. She was not immediately sent for recording her statement under Section 164 of the Cr.P.C. From the case diary, it is apparent that the girl in fact returned home on the very next morning and as such she was produced in the police station after about five days. These facts show that even though F.I.R. had been lodged the parents themselves did not go to medical examination or her statement recorded till she was mentally tortured into it. When she was subsequently medically examined,

the report is also available on record. If we come to the medical report as contained in the case diary, it does not suggest any forcible sexual intercourse. If upon allegation of rape, medical examination was conducted, it should have been done immediately and not after a week. No status of hymen is mentioned.

Be that as it may, in the event of his arrest/surrender before the court below within four weeks, let the above named petitioner be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand only) with two sureties of the like amount each to the satisfaction of Smt. Sangita Rani, Judicial Magistrate 1st Class, Patna in connection with Jakkanpur P.S. Case No. 19 of 2016, subject to conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Navaniti Prasad Singh, J.)

Amit/Rajiv

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