

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50949 of 2017

Arising Out of PS.Case No. -87 Year- 2017 Thana -BARHARA District- PURNIA

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Mumtaj Son of Md. Jumarti, R/o Village- Shastri Chowk, P.S.- Bihariganj,
District- Madhepura.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opposite Party/s : Mr. Iftekhar Mahmood

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

3 21-12-2017 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in connection with
Barhara (Raghubanshnagar) P.S. Case No. 87 of 2017 registered
under Sections 363, 366A/376 of the Indian Penal Code and 4 of
POCSO Act.

Daughter and niece of the informant is said to have
been kidnapped by the driver of the pick-up van namely, Mumtaj
along with one another accused and subsequently his niece was
dropped after three and half hours.

It is submitted by learned counsel for the petitioner
that no occurrence as alleged ever took place. As a matter of fact,
it is a case of love affection and victim was in love with the



petitioner and *suo motu* eloped with him. Victim in her statement recorded under Section 164 of Cr.P.C. has also not named the petitioner in the occurrence. On medical examination doctor has also not found any sign of sexual assault and spermatozoa in the vaginal swab of the victim. The petitioner has no criminal antecedent. The petitioner has been languishing in custody since 26.04.2017.

On the other hand, learned APP citing the relevant paragraphs of the case diary has submitted that the victim was recovered by the police from the house of the petitioner on the basis of his confessional statement and victim in her statement recorded under Section 164 of Cr.P.C. has stated committing of sexual assault against her. The doctor medically examining the victim has reported that possibility of the rape cannot be ruled out.

In the facts and circumstances of the case, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer is rejected.

(Prakash Chandra Jaiswal, J)

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