

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51687 of 2017

Arising Out of PS.Case No. -41 Year- 2017 Thana -HATHAURI District- SAMASTIPUR

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1. Deepak Kumar Rai, Son of Ratan Rai, Resident of Village- Dasaut,
P.S.- Hathauri (Shivaji Nagar O.P.), District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal

For the Opposite Party/s : Mr. Sri Khurshid Anwar

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 04-12-2017

Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Hathauri (Shivaji Nagar O.P.) P.S. Case No. 41 of 2017 instituted for the offence under Sections-365, 366(A) of the Indian Penal Code.

There is allegation in the written report that this petitioner along with two other persons were seen by the informant talking in front of his house at 10.00 P.M. in the night. The informant inquired from them, then they told that they had to talk with his daughter Arati. The daughter of the informant was sleeping at that time. In the morning the informant did not find his daughter. The informant has raised suspicion that this petitioner and other two persons who were talking in front of his house last night had kidnapped his daughter.

The case diary has been received.

The victim girl on recovery has given her statement u/S 164



Cr.P.C. wherein she has stated that in the morning when she had gone for call of nature 2-3 boys pressed her mouth with Gamcha. She identified one of them as Deepak (petitioner). He gave her something to smell and thereafter, she got sense after 2-3 days. She did not find any of the boys at that time and she came back to her house.

Counsel for opposite party No. 2 has submitted that the victim has given statement u/S 164 Cr.P.C. in which she has taken name of the petitioner. The doctor has stated in medical report that there was sexual contact. The age of the victim was assessed by doctor as 16-17 years. He has also submitted that police in the supervision note has opined rape has been committed.

From perusal of the statement of victim girl u/S 164 Cr.P.C. it appears that she has not levelled any allegation of specific overt act against this petitioner. She has only stated that she identified one of the accused out of three who gave something to smell and thereafter, she got sense after two-three days and on that date, she did not find any boy. She returned to her house.

In such circumstances, prayer for anticipatory bail is allowed and it is ordered that the petitioner named above in the event of his arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Hathauri (Shivaji Nagar O.P.) P.S. Case No. 41 of 2017 to the satisfaction of learned



Special Judge, POCSO Act, Samastipur subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bond of the petitioner and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Sanjay Priya, J)

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