

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32562 of 2017

Arising Out of PS.Case No. -9 Year- 2016 Thana -PIYAPOKHAR District- KISANGANJ

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Mustafa, son of Atabul Rahman, resident of village Koia, P.S. Ziapokhar,
Distt. Kishanganj.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha, Advocate.

For the Opposite Party/s : Mr. Shyam Bihari Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 09-08-2017 Heard learned counsel for the petitioner and the State.

The petitioner seeks bail in Special Case No. 01 of
2017 arising out of Ziapokhar P.S. Case No. 09 of 2016 instituted
for the offence under Section 376 of the Indian Penal Code.

It has been submitted on behalf of the petitioner that
victim girl is niece of the petitioner. He has been falsely
implicated in this case on account of family dispute. The girl was
medically examined just on the next day of the occurrence and
the Doctor did not find any injury on her private parts. The
hymen was found intact.

Learned A.P.P. has submitted that statement of victim
girl recorded under Section 164 Cr. P.C. is available in
paragraph-79 of the case diary wherein she has stated that this
petitioner took her in the Bamboo Clump and committed illegal



act with her.

As per written report, seven years old daughter of the informant went to bring cycle which was kept near river and pipal tree. On the way, it is alleged, that this petitioner chased and took her in a Bamboo Clump where he committed rape. She narrated the story to her parents after returning to the house. The mother of the victim girl found blood oozing from her private parts.

The victim in her statement under Section 164 Cr. P.C. has stated that while she was going to bring cycle, the petitioner took her in the Bamboo Clump and committed illegal act with her after removing her pant. She felt pain. Thereafter, petitioner told the victim girl to go to her house saying that he is coming with cycle. She told about the occurrence to her mother in the evening. She has also stated that petitioner has pressed her neck and gave threat to kill her.

From the statement of the victim girl recorded under Section 164 Cr. P.C. and the statement made by the informant in the written report, it appears that there is apparent inconsistency in both the statement because the informant has stated that she found blood oozing from her private parts whereas victim girl has stated in her statement that she felt pain after committing illegal



act by the petitioner. The girl was medically examined just on the next day after the incident and the doctor has not found any sign of sexual intercourse. The medical examination report is available in paragraph-82 of the case diary wherein the doctor has found no evidence of recent sexual intercourse and has also stated that no spermatozoa was found. The hymen was found intact.

The petitioner is said to be uncle of the victim girl. It is mentioned in para-3 of the bail petition that he has clean antecedent.

In such circumstances, prayer for bail of the petitioner is allowed. Let the petitioner above named, 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 Special Judge, Kishanganj, in connection with Special Case No. 01 of 2017 arising out of Jiyapokhar P.S. Case No. 09 of 2016, subject to the condition that both the bailors will be the close relatives of the petitioner.

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(Sanjay Priya, J)

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