

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47574 of 2016

Arising Out of PS.Case No. -62 Year- 2016 Thana -BIRAUL District- DARBHANGA

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1. Ilmul Hoda @ Ilmul, S/o Kamrul Hoda, Resident of Village- Gyari,
Police Station- Biraul, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Adv.

For the Opposite Party/s : Mr. Sri Ramchandra Sahani

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 30-01-2017 Heard the parties.

This application has been filed in connection with Biraul
P.S.Case No.62 of 2016 dated 1.3.2016 for the offence under
Sections 376 I.P.C. and 6 POCSO Act.

It is submitted on behalf of the petitioner that the
allegation against the petitioner is that the petitioner was in love
with the Opposite Party (victim girl) as to why physical relation
was made between them and the petitioner was assuring her
that he will marry her but when she became pregnant, he
refused to marry, however, the petitioner has challenged the
aforesaid fact and D.N.A. test was held by the court and the same
was sent to the Forensic Science Laboratory, Patna but the report
is still awaited.

It is further submitted that according to medical report, she



was found major, as such this is not a case under Section 376 of Indian Penal Code and other Sections.

Heard learned A.P.P. also, who has opposed the prayer for bail of the petitioner.

Having heard both sides. From perusal of the record, it appears that in the FIR, her age has been mentioned as 16 years and in her statement made under Section 164 Cr.P.C., she has stated her age as 16 years whereas the Learned Magistrate has assessed her age 17 years. No doubt the medical report shows her age between 18-19 years, however, no final opinion can be made on the age. From perusal of the case, it appears that D.N.A. test was held and report is awaited. In view of the aforesaid facts, the learned court below is directed to take steps for obtaining report by sending an express reminder to the F.S.L., Patna and once the F.S.L. report is received, the petitioner is at liberty to renew his prayer for bail before the learned court below, who will decide it on the basis of materials available on the record as well as the report of the D.N.A.

Accordingly, such this application is dismissed with the aforesaid observation.

(Vinod Kumar Sinha, J)

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