

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16516 of 2017

Arising Out of PS.Case No. -70 Year- 2016 Thana -RAHIKA District- MADHUBANI

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Md. Jalal @ Jalaluddin, Son of Md. Ali, Resident of Village- Rampur,
P.S.- Industrial Area Audogit, Tahsil-Karachhana, District- Allahabad
(U.P.).

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha
For the Opposite Party/s : Mr. Madan Kumar
Mr. Jitendra Kumar Bhartee

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 06-07-2017 Heard Sri Sanjay Kumar Jha, learned counsel for the
petitioner , Sri Madan Kumar, learned Additional Public
Prosecutor as well as Sri Jitendra Kumar Bhartee, learned
counsel, who has appeared on behalf of the complainant/
informant.

The petitioner, apprehending his arrest in Rahika P.S.
Case No. 70 of 2016 registered for the offence under section 363,
366, 120(B) of the Indian Penal Code and Section 4/6 of the
Protection of Children from Sexual Offences Act, 2012 has
prayed for grant of bail in the event of arrest or surrender.

It was submitted by learned counsel for the petitioner
that the informant/ father of the victim had initially lodged a



complaint, which was registered as Complaint Case No. 355 of 2016, in which the complainant himself has stated the date of occurrence as 04.04.2016 whereas, complaint was filed on 06.05.2016 i.e. after about one month. The said complaint was referred to Police for its registration and investigation under Section 156 (3) of the Cr.P.C. and thereafter, the present F.I.R. was lodged. It was submitted by learned counsel for the petitioner that during course of investigation statement of victim girl was recorded under Section 164 of the Cr.P.C. before the learned Magistrate in which victim had disclosed her age as 18 years however, the learned Magistrate has assessed her age as 16 years. By way of referring to Annexure '2' i.e. copy of 164 Cr.P.C. statement of the victim, he submits that the victim has categorically stated that she had solemnized marriage with the petitioner and she wants to reside with the petitioner. She has raised even finger against her father, who is the complainant. Learned counsel for the petitioner has also drawn my attention to Annexure '3' i.e. an order dated 21.2.2017 passed by learned 1st Additional Sessions Judge, Madhubani whereby petition filed by the mother of the petitioner Smt. Sammo Khatoon for taking custody of the victim was allowed. He further submits that to ascertain the age of the victim she was examined by medical



board and medical board has assessed her age as 17 years . According to learned counsel for the petitioner in case of assessment of age by medical board age can vary either to one year upper limit or one year lower limit. He submits that in such cases benefit of upper age is to be given.

Learned Additional Public Prosecutor as well as learned counsel for the complainant /informant have opposed the prayer for grant of anticipatory bail on the plea that in the F.I.R. there were specific allegation against the petitioner, however considering the statement of the victim recorded under Section 164 of the Cr.P.C. as well as the order dated 21.2.2017 Annexure '3' passed by learned 1st Additional Sessions Judge , Madhubani, whereby the victim was allowed to go with mother of the petitioner , the court is of the opinion that it is a fit case for extending the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the petitioner Md. Jalal @ Jalaluddin be enlarged on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge, Madhubani / concerned court in connection with Rahika P.S. Case No. 70 of 2016 arising out of G.R. No. 30 of 2016



subject to the conditions as contemplated under section 438(2) of
the Code of Criminal Procedure 1973.

(Rakesh Kumar, J)

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