

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43712 of 2017

Arising Out of PS.Case No. -128 Year- 2017 Thana -UCHAKAGAON District- GOPALGANJ

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Shah Fahad @ Shah Fahad Alam, Son of Izharul Haque, Resident of
Village- Asandupur, P.S.- Uchkagaon, District- Gopalganj.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Ranjeet Kumar, Advocate
Mrs. Ranjita Singh, Advocate
For the Opposite Party/s : Mr. Pradeep Narain Kumar

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 17-10-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and the learned A.P.P. for the State.

Petitioner seeks bail in connection with Uchkagaon
P.S. Case No. 128 of 2017 pending in the Court of learned Chief
Judicial Magistrate, Gopalganj registered for the offences
punishable under Sections 363 and 366A/34 of the Indian Penal
Code.

The prosecution case, as lodged by the informant, is
that his sister, Saiyada Fatima, a minor girl of 16 years, had
disappeared from the house since 5:00 A.M. and on search his
friend, the petitioner stated that he along with other three accused



persons has kidnapped his sister. Petitioner was brought to the police station thereafter.

It has been submitted by the learned counsel for the petitioner that allegations are false, petitioner has no criminal antecedent and he is friend of the informant. He submits that the date of occurrence is 18.07.2017, victim girl was recovered on 22.07.2017 and sent to the remand home and her statement under Section 164 of the Cr.P.C. was taken before the learned Magistrate on 24.07.2017. He submits that she has stated in her statement under Section 164 of the Cr.P.C. that she is 18 years of age and there is a lot of contradictions in her statement, as she alleges the date of occurrence as 14.07.2017 and that she was recovered by two persons, who had brought her to the G.R.P. Police Station wherein the police found her at Siwan railway station and was sent to the remand home. He submits that the victim girl is a major and no such occurrence took place. He submits that the victim girl herself did not return home, as stated in her statement under Section 164 of the Cr.P.C. and that petitioner is languishing in judicial custody since 19.07.2017. He submits that the medical report does not suggest any sexual assault and her age has been assessed as 17-18 years.



However, learned counsel for the informant opposes the prayer for bail stating therein that the learned Magistrate has assessed the age of the victim girl to be 16 years and opinion regarding vaginal swab taken is reserved. He submits that the victim girl was taken away by the petitioner, who was also friend of the informant and the victim girl in her statement has affirmed that the petitioner along with others took her and committed rape on her. Learned A.P.P. for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, I am not inclined to grant the privilege of bail to the petitioner at this stage. This application is, accordingly, rejected.

However, petitioner is at liberty to renew his prayer for bail after framing of charge.

(Nilu Agrawal, J.)

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