

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58946 of 2017

Arising Out of PS.Case No. -112 Year- 2016 Thana -SAKRI District- MADHUBANI

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Mithilesh Kamat @ Mithilesh Kumar Chaudhary @ Mithilesh Chaudhary,
S/o Madan Kamat, Resident of Village - Birsair, P.S. - Sakari, District -
Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Raj Kumar, Advocate
Mr. Ratanakar Jha, Advocate
For the S t a t e : Mr. Rajballabh Singh, APP
For the Informant : Mr. Sanjay Kumar Jha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 15-12-2017 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State. Learned

counsel for the informant is also present.

The petitioner is in custody since 19.08.2017 in
connection with Sakari P.S. Case No.112 of 2016,
corresponding to G.R. No.2567 of 2016, registered for the
offence under Section 376 of the Indian Penal Code.

The allegation is of committing rape on the victim
girl and the same is squarely denied by the petitioner.

Learned counsel for the petitioner submits that the
entire allegation is motivated and the delay in lodging the
complaint case, which was subsequently registered as an



F.I.R., is not explained. It is further submitted that the father of the petitioner has categorically made an application before the Superintendent of Police, Madhubani that he is willing to put his son to a DNA test and once the same is done, the truth of the matter will come before the investigation. He thus prays for release as he is in custody since 19.08.2017 and he is also not having any criminal antecedent.

Learned counsel appearing for the informant, however, while resisting the bail application, submits that it is a clear case where the petitioner had assured the victim girl of marriage and subsequently had denied the same and the victim girl had conceived and has now a child who is almost one year of age.

Learned counsel for the State, however, prays for calling for the case diary.

Having considered the rival submissions, this Court feels that in view of the specific offer made by the petitioner to subject himself to a DNA test, let the petitioner, above named, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Madhubani, in connection with Sakari P.S. Case No.112 of



2016, corresponding to G.R. No.2567 of 2016, subject to the following conditions:

(1) One of the bailors shall be his father, who has given the said statement before the S.P., Madhubani. The expense of the DNA test shall be borne by the petitioner himself and in case, the same is tested positive against the petitioner, it shall be open to the informant to approach this Court for cancellation of the order of bail passed by this Court.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

It is made clear that the petitioner on his release shall make himself available before the court, who shall order conducting a DNA test by an appropriate authority. The



petitioner must appear within three months of the release order
passed in his favour.

(Anjana Mishra, J)

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