

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27223 of 2018

Arising Out of PS. Case No.-590 Year-2017 Thana- MASAURHI District- Patna

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Sonu @ Abhishek, Son of Santosh Kumar Ray, Resident of Village Charma,
P.S.- Masaurhi, District- Patna.

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kishore Kumar Thakur, Adv.

For the Opposite Party/s : Mr. Satyadev Prasad Singh Yadav

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-05-2018 Heard learned counsels for the petitioner and State.

The petitioner are apprehending arrest in a case registered for the offences punishable under Section 8/12 of The Protection of Children from Sexual Offences Act, 2012.

The prosecution case, as per the written report of Preeti Kumari, dated 26.11.2017 submitted to the Station House Officer, Masaurhi Police Station is to the effect that on 26.11.2017 at 5.30 P.M. when the informant went to ease out then her co-villagers Satish Saw and the petitioner Sonu @ Abishek after gagging her mouth dragged her into the nearby field and there they tried to outrage the modesty of the informant and on alarm being raised, neighboring people came on the spot, then the informant escaped from the scene and came to her house. Thereafter both accused persons entered into



the house of the informant and pelted stones and assaulted the sister of the informant. They also abused the informant and her family members and threaten to kill them if any criminal case is lodged.

It is submitted by the learned counsel for the petitioner that in the FIR the specific case of the petitioner is that the occurrence took place on 26.11.07 at 5.30 P.M., whereas the victim in her statement recorded under section 164 Cr. P.C. has changed the time of the occurrence from 26.11.2017 at 5.30 P.M. to 5.30 A.M. The victim in her statement recorded under Section 164 Cr. P.C. statement she has alleged that she was being gagged by co-accused Satish Saw, who tried to tie her mouth and subsequently she escaped from his custody. Thereafter the informant went to the house of Satish Saw to make complaint and there the petitioner assaulted and abused the sister of the informant, whereas in the FIR, it is specific case that when the villagers reached on the spot then the informant escaped from the spot and came to her house where the petitioner and the co-accused entered into the house of the informant and made assault and abused the informant. Hence, virtually on the basis of statement of the victim, recorded under Section 164 Cr. P.C., no case under Sections 8 and 12 of the



Protection of Children from Sexual Offences Act is made out against the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that there is a specific accusation against the petitioner in the FIR.

From perusal of the accusation made in the FIR, no offences under sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012 is made out as there is no accusation of sexual assault in the FIR. Moreover the inconsistency between the written report of the informant and the statement of the victim, recorded under Section 164 Cr. P.C. gets reflected from the fact that not only time of occurrence has been changed, but the manner of occurrence has completely been changed, which clouds the bona fide of accusation. It appears that the FIR was registered on 26.11.2017, but it reached to the court of learned ADJ on 28.11.2017, which further clouds the bona fide of the accusation.

Considering the aforesaid facts, coupled with the statement made in the paragraph no. 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of



arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-I, Patna in connection with Masaurhi P.S. Case No. 590 of 2017 subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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