

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5214 of 2018

Arising Out of PS.Case No. -536 Year- 2017 Thana -PURNEA SADAR District- PURNIA

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Md. Zia, son of Varkat Khan, resident of Village- Kanaila, P.S. Muffasil,
District- Purnia.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Jha, Advocate.

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 19-03-2018

Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in **Sadar (Muffasil) P.S. Case No. 536 of 2017** instituted for the offence under Section 366 of the Indian Penal Code.

It is alleged in the written report that daughter of the informant aged about 18 years had gone to School and did not return to her house. The informant made search but he could not find his daughter.

Case diary has been received.

The statement of the victim girl has been recorded under Section 164 Cr. P.C. wherein she has levelled specific allegation against this petitioner of kidnapping her and establishing forceful physical relationship with her. She has



further stated that this petitioner had kept her for five days in a room. She has stated in her statement that this petitioner established four times forceful physical relationship with her. She has stated her age in the statement recorded under Section 164 Cr. P.C. as 17 years and the court below has assessed her age to be 17 years.

The Doctor has medically examined the victim girl and found her age between 15-16 years.

Learned counsel for the petitioner has submitted that the statement of victim girl has been recorded after one month 7 days of her recovery. She has given her statement at the behest of her parents just to pressurize the petitioner to marry her.

Learned counsel for the petitioner has submitted that victim girl has stated in her statement recorded under Section 164 Cr. P.C. that she talked with her brother on Mobile phone, then he rushed there and took her home. The brother of the victim girl in his statement made in paragraph-8 of the case diary has not supported such statement. From paragraph-27 of the case diary, it appears that mother and *Bhabhi* of the victim girl have stated that she voluntarily appeared all of sudden and was handed over to the police.

This Court after looking into the statement of victim



girl recorded under Section 164 Cr. P.C. and the report of Medical Board, finds that girl is minor. She has levelled specific allegation against the petitioner that he committed forceful physical relationship with her after kidnapping her.

Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner stands rejected.

Petitioner may surrender before the court below and make prayer for regular bail which will be considered by the court below in accordance with law on its own merit without being prejudiced by this order, if possible on the same day.

(Sanjay Priya, J)

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