

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30786 of 2018

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

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Satish Sao, son of Ram Pukar Sah, Resident of Village-Charma, P.S.-
Masaurhi, District-Patna.

... .. Petitioner/s

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. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-05-2018 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a case registered
for the offences punishable under Sections 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 the petitioner Satish Sao and co-accused Sonu @ Abishek
after gagging her mouth dragged her into the nearby field and
there they tried to outrage the modesty of the informant. On
alarm being raised, the neighboring people came on the spot, on
which, the informant escaped from the scene where upon she



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 the petitioner Satish Sao, who tried to tie her mouth and subsequently she escaped from his custody. Thereafter, the informant went to the house of the petitioner Satish Sao to make a complaint and there the co-accused, Sonu 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 assaulted 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 also 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)

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