

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39388 of 2018

Arising Out of PS.Case No. -87 Year- 2018 Thana -BARBIGHA District- SEKHPURA

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Nirbhay Kumar @ Military, Son of Sita Ram Singh, Resident of Village-
Khojagachhi, Police Station- Babigha, District- Sheikhpura.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar

For the Opposite Party/s : Mr. Smt. Renuka Ratnakar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 09-07-2018

Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 363, 366/34 of the Indian Penal Code and Section 8 of Protection of Children from Sexual Offences Act, 2012.

The prosecution case as per the written report of Devendra Kumar dated 27.03.2018 submitted to the Station House Officer, Barbigha P.S., is to the effect that on 25.03.2018 at 5.00 P.M., the sister of the informant, Sindhu Kumari aged about 14 years went to Barbigha fair but she did not return in the night then the informant started searching her but, in the meantime, on the mobile kept in the house, missed call of one



Nirbhay Kumar @ Military came and when the informant made a call on that phone, then the person from the other side disclosed his name as Rahul and switched off the mobile, thereafter, it was believed by the informant that Nirbhay Kumar had kidnapped the sister of the informant. Subsequently, informant approached to the father of Nirbhay Kumar namely, Sitaram Singh to enquire about the petitioner then the father of petitioner, Nirbhay Kumar abused the informant.

It is submitted by learned counsel for the petitioner that in the statement under Section 164 Cr.P.C., the victim got her age recorded as 15 years when the Court has assessed as such and further she has stated that she on her own, went in the company of the petitioner. She has not alleged any misbehaviour or forceful physical relationship by the petitioner. The doctor has also found the age of victim as 15-16 years. Hence, the accusation under Section 366 of the Indian Penal Code gets negated by the statement of the victim under Section 164 Cr.P.C., the petitioner is a student. It is further submitted that for the occurrence of 25.03.2018, written report was submitted on 27.03.2018. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.



Learned APP, however, submits that the accusation of kidnapping is specific against the petitioner.

Considering the fact that the victim in her statement under Section 164 Cr.P.C. has stated that she on her own went in the company of the petitioner, she has never been kidnapped by the petitioner and delayed lodging of the FIR, coupled with the statement made in paragraph 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 or 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 the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Sheikhpura in connection with Barbigha P.S. Case No. 87 of 2018 (POCSO) 10 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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