

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56163 of 2017

Arising Out of PS. Case No.-203 Year-2017 Thana- ROHTAS District- Rohtas

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Sweeti Kumari @ Sweety Kumari, aged about 16 years under the guardianship of her father namely Ashok Thakur @ Ashok Sharms, R/o Khajuri, P.S. Rohtas, Dist- Rohtas.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Manoj Kumar Yadav @ Manoj Kumar, s/o Munarik Yadav, R/o Telkap, PS+Dist- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Sharma
For the Opposite Party/s : Mr. Sri Umeshnand Pandit

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 18-07-2018 A counter affidavit has been filed on behalf of opposite party no. 2 during the course of hearing of the petition.

Let it be taken on record.

The opposite party no. 2 was granted bail by the court below vide order dated 29.08.2017 passed in connection with Rohtas P.S. Case No. 203 of 2017 which was instituted for the offences under Section 354(B) of the Indian Penal Code and Sections 66/67 of the I.T. Act, 2000 along with Sections 4/8 of the Protection of Children from Sexual Offences Act and Rules, 2012.

The records as well as the impugned order reveal that the Chowkidar/informant found that many students and their



guardians had collected near a school, protesting against the action of opposite party no. 2 in subjecting the petitioner, a minor girl, to sexual misdemeanor and disseminating the sex video prepared by him on social media.

The FIR further reveals that the victims as well as her father and other relatives were insisted upon by the informant/Chowkidar to lodge a case, but none of them came forward to lodge any case. Seeing no other option, the Chowkidar filed the aforementioned case on the information provided to him by the people who had gathered at the place near the school in which the petitioner is a teacher and where the victim has been studying. The impugned order further reveals that the aforesaid allegation was made by the victim girl as she found herself in a clumsy circumstance after having consumed sweetmeat, infused with some stupefying substance, which was given to her by the petitioner. It was suspected by the victim that taking advantage of her delirious state of mind, photographs were taken and the aforesaid photographs were made viral on social media. However, on the next date, when the victim went to school, she stayed back even when all the other girls had left the school premises. Then, it has been alleged by the victim that she was again subjected to rape.



The court below did not accept the aforesaid allegation to be correct, inasmuch as no girl, even if she is a minor, would go to a person who has ravished her only a day before. In that situation, her explanation that she was afraid of the circumstances and was also shy in letting this fact be communicated to her parents, is also not acceptable.

It was argued on behalf of the petitioner before the court below that because of the *inter se* rivalry between teachers of one particular faction in a school, he has been made accused in this case at the instance of a Chowkidar, who has been fed with wrong information.

Learned counsel for the opposite party no. 2 has, by way of supplementary affidavit, informed this court that till date, no evidence of any such video having been prepared by the petitioner or its dissemination on the social media has been brought to the notice of the police. That apart, the victim was subjected to medical examination and the allegations were found to be completely unfounded.

True it is that the victim is a minor and there is a possibility of her getting scared in narrating the incident to her parents or to others. It is also understandable that the father of the victim, would, under such circumstances, be reluctant to



approach the courts of law for the fear of the reputation of his daughter being tarnished. Nonetheless, when such an allegation making a video of the stream of the sexual Act is alleged to have been prepared but the same has not been brought to the fore, the allegation on the face of it, would appear to be doubtful. Apart from this, there are certain principles on which bail, once granted on merits and on satisfaction of the court concerned can be cancelled.

Considering the circumstances in which the case was lodged and materials against the petitioner being highly deficient, this Court does not wish to interfere with the order granting bail to the opposite party no. 2.

The petition is dismissed.

(Ashutosh Kumar, J)

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