

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42484 of 2018

Arising Out of PS.Case No. -214 Year- 2017 Thana -KADWA District- KATIHAR

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1. Sintu Kumar Mehta Son of Kailash Mehta@! Kameshwar Mehta
Resident of Village- Thadha, P.S. Maranga, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy

For the Opposite Party/s : Mr. Sri Ramchandra Sahani

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 10-08-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is in custody since 15.03.2018 in connection with G.R. No. 3227 of 2017 arising out of Kadwa P.S. Case No. 214 of 2017 for the offence registered under Sections 376, 342, 341 and 323/34 of the Indian Penal Code and Section 4 of the Protection of Child from Sexual Offence Act, 2012.

Learned counsel for the petitioner submits that the entire case against the petitioner is false and fabricated, as it is the result of the disgruntlement of the informant and her family with regard to marriage negotiation having failed and as he got married only recently. It is further submitted that the victim girl has described in the first information report as well as statement made under



Section 164 Cr. P.C. that she is 17 years of age, but there is no documentary proof to indicate that the informant was not a major. It is further submitted that the medical report also belies the prosecution story of rape by the petitioner, as the doctor has not conclusively found any evidence of rape over the informant as he found no marks of injury on the person of the victim girl. It is further submitted that the girl in the first information report as well as her subsequent statement made under Section 164 Cr.P.C. stated that she was hurt by the Chair on her head but the doctor has not found any such injury. He, thus, submits that there being a distinct cloud on the prosecution story. the petitioner may be extended the privilege of bail. It has been further submitted that so far as the provision of POCSO Act is concerned, the possibility of false implication cannot be ruled out, as the prosecution has failed to produce any documentary evidence being in the shape of either Adhar Card or the Matriculation Certificate. He, thus, submits that the petitioner may be extended the privilege of bail, as he has already been in custody for more than five months. Learned counsel for the petitioner further submits that the petitioner shall cooperate in any further investigation and shall also be available as and when required by the Court below after extending the privilege of bail.



Diary of the present case was called for which has since been received.

Learned counsel appearing on behalf of the State, after perusal of the case diary submits that the victim girl has stated in her re-statement that in the night time, when she was taken home, she was unable to say anything on account of her intoxication and could do so only on waking up the following morning. It also appears from the case diary that in the statement made before the police, the mother and the Aunt, who had recovered the victim girl from the turmeric field, have not named the present petitioner in their statement and the name of the petitioner has surfaced only later. It is further submitted by learned counsel for the State that the medical report indicated the girl to be between 16-17 years but report does not indicate that there was any mark of injury on her body, as has been described in the first information. Further the medical report also states that only an attempt for sexual intercourse might have been done, no spermatozoa has been found. As such, it is open for the prosecution to draw any conclusion either way.

Having heard learned counsel for the petitioner and learned counsel for the State and upon considering all the materials which has come in the case diary, it appears that there is



distinct cloud over the prosecution story, as the injury which the informant has herself described has not been found on her person. Furthermore the story of false implication cannot be ruled out as between the time of occurrence and the lodging of the first information report, there has been some delay, as admittedly, they had first gone to the local Mukhiya for some sort of negotiation/compromise between the parties.

In view of the aforesaid facts and circumstances of the case, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Additional District Judge -1st-cum-Special Judge POCSO Act, Katihar in connection with G.R. No. 3227 of 2017 arising out of Kadwa P.S. Case No. 214 of 2017, subject to the following conditions :-

(1) one of the bailors will be his father.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(3) The petitioner shall remain physically present in Court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons his bail



bonds shall be liable to be cancelled by the learned Court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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