

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55103 of 2018

Arising Out of PS. Case No.-291 Year-2018 Thana- SHEKHPURA District- Sheikhpura

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Budhan Bind @ Budhan Kumar, Son of Suresh Vind @ Suresh Bind,
Resident of Village- Kare, Police Station- Sheikhpura, 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 : Md. Sufiyan

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 14-12-2018 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner apprehends his arrest in connection
with Sheikhpura P.S. Case no. 291 of 2018 (POCSO Case No.
18 of 2018) registered under Sections 366(A), 376/34 of the
Indian Penal Code and Section 4 POCSO Act.

Petitioner along with four other accused persons
are said to have kidnapped minor daughter of the informant and
committed rape against her.

It is submitted by learned counsel for the petitioner
that the mother of the informant and other witnesses in
paragraphs 19, 20 and 38 of the case diary and victim in her
statement recorded under Section 164 Cr.P.C. have stated that



petitioner had taken her to Gobra Munger and gave telephone call to the husband of Sarpanch of village informing the presence of the victim with him. Whereupon, father of the victim arrived there and took her back. There is no allegation of rape against the petitioner either in the statement of victim recorded under Section 164 Cr.P.C. or in the statement of aforesaid witnesses. Hence, no offence under Section 366(A) and 376 IPC against the petitioner is made out rather the petitioner has facilitated the recovery of victim.

On the other hand, learned counsel for the informant and learned APP opposing the bail prayer of the petitioner submitted that the victim in her statement recorded under Section 161 Cr.P.C. at para-4 of the case diary has stated that the petitioner had taken her to Gobra Munger by changing three autos on the way despite getting it reserved and subsequently sensing lodging of the FIR against him, he gave information of the presence of the victim to the husband of Sarpanch of the village and the victim was recovered from his possession. Other accused persons have been enlarged on regular bail by a co-ordinate Bench of this Court except Bipin Kumar, who is said to have committed rape against the victim.

In the facts and circumstances of the case, I am not



inclined to enlarge the petitioner on anticipatory bail.

Accordingly, his prayer is rejected.

However, petitioner is directed to surrender before the court below and seeks regular bail and learned court below shall dispose of the same in accordance with law without being prejudiced by the present order.

(Prakash Chandra Jaiswal, J)

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