

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60575 of 2017

Arising Out of PS. Case No.-258 Year-2017 Thana- SHIVSAGAR District- Rohtas

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Kanchan Kumari D/o Ayodhaya Singh, R/o Village- Girdhariya, Post + P.S.-
Shiv Sagar, Distt.- Rohtas at Sasaram (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Birbal Kumar Mehta, S/o Balbhadra Narayan Mehta, R/o Vill.- Girdhariya,
Post + P.S.- Shiv Sagar, Distt.- Rohtas at Sasaram.

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr. Ranjit Kumar, Advocate.

For the Opposite Party : Mr. Anand Kishore Choudhary, APP.

For the Informant : Mr. Jagjit Roshan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

5 28-03-2018 The petitioner has sought cancellation of bail of
opposite party no. 2 which was granted to him by
order dated 13.10.2017 passed by the learned 1st
Additional District and Sessions Judge-cum-Special
Judge, Rohtas at Sasaram in connection with Shiv
Sagar P.S. Case No. 258 of 2017.

The petitioner/victim had lodged the aforesaid
FIR alleging that on 13.09.2017 when she came out
of her house at 3:30 in the night, the opposite party
no. 2 came on a motorcycle and took her to his
Dhaba and committed rape on her. She came back
home only after the occurrence and told about the
same to her parents.



A perusal of the order impugned reflects that the court below found the allegation to be doubtful in as much as it was not believed, in the first instance, by the court below that anybody would come out of the house in the dead of the night to attend to the call of nature and without any intimation of any kind, the accused person would also be ready to take advantage of that situation. The other reason which weighed to the court was that there is no allegation that the victim/petitioner was put to any fear or was shown any weapon for her to have been under a constant threat of being harmed. In that event, it was not probable that the petitioner/victim would be made to sit on a motorcycle behind the back of the opposite party no. 2 and she would be taken to a destination for being raped.

That apart, the court below also took into account that the medical board which examined the petitioner/victim assessed her age to be between 18-19 years. The other persons who have spoken about the occurrence are only hearsay witnesses.

This Court finds no reason to interfere with the aforesaid order granting bail to the opposite party no. 2. For the reasons ascribed by the court below



while granting bail to the opposite party no. 2, no interference is therefore called for.

The petition is dismissed.

However considering the fact that the petitioner is the victim, the trial court would expedite the trial of the case.

(Ashutosh Kumar, J)

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