

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39208 of 2018

Arising Out of PS. Case No.-60 Year-2018 Thana- BARBIGHA District- Sheikhpura

Rohit Kumar S/o Naresh Ram, R/o Vill.- Shamachak, P.S.- Barbigha, District-Sheikhpura ... Petitioner

Versus

The State of Bihar ... Opposite Party

Appearance :

For the Petitioner : Mr. Bipin Kumar, Adv.
For the State : Mr. Kumar Virendra Narayan, APP 226
For the informant : Mr. Jaganath Prasad, Adv.

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 06-09-2018

Heard the learned counsel for the petitioner, learned counsel appearing on behalf of the informant and the learned counsel appearing for the State.

Petitioner, who is languishing in judicial custody since 16.03.2018, seeks bail in connection with Barbigha (Mission O.P.) P.S. Case No. 60 of 2018 for offence alleged under Section 366A/34 of the Indian Penal Code.

The prosecution case, as lodged by the informant, is that his 15 year old daughter, Anjali Kumari, a Class IX student, went to purchase some house hold articles from the market and on the way petitioner along with another co-accused, Dinesh Kumar kidnapped her and when the informant went to the petitioner's house his parents abused her. The victim-girl is still traceless.

It has been submitted by the learned counsel for the petitioner that he is innocent, bears no criminal antecedent and there was a love affair between the petitioner and the victim-girl and as per the medical board her age has been found to be 17-18 years, as



such, the Protection of Children from Sexual Offences Act is not applicable in the case of the petitioner. He, further, submits that charge sheet has already been submitted and there is no allegation of tampering of the prosecution witness.

However, learned counsel appearing on behalf of the informant submits that the victim-girl although has stated her age to be 15 years before the Magistrate in her statement under Section 164 of the Criminal Procedure Code, but, the Magistrate has found her age to be 17 years and that she had stated that the petitioner had taken her to Asansole and from there to Dhanbad and has also threatened her.

The learned Additional Public Prosecutor for the State also opposes the prayer for bail.

However, considering the facts and circumstances and the materials on record I am not inclined to grant the privilege of bail to the petitioner at this stage.

The prayer for bail is **rejected**.

However, the petitioner is at liberty to renew the prayer for bail after framing of the charge.

(Nilu Agrawal, J)

Shamshad/-

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