

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38953 of 2018

Arising Out of PS.Case No. -177 Year- 2017 Thana -BAUSI District- PURNIA

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Zafrul @ Md. Jafrul @ Md. Zafrul Alam, Son of Kamrul, Resident of
Village- Majlishpur, P.S.- Baisi, District- Purnea.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Sri Humayou Ahmad Khan

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 10-07-2018 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner is languishing in judicial custody since
05.09.2017 in connection with Special Case No. 74 of 2017 arising
out of Baisi P.S. Case No. 177 of 2017 for offences punishable
under Sections 376, 324, 307, 34 of the Indian Penal Code and
Section 4 of the POCSO Act. Subsequently, 302 I.P.C. was also
added.

The prosecution case, as lodged by the informant, is
that her daughter Najmera Khatoon disappeared from the house
but she received information from her sister Bibi Jannati that her
daughter has arrived at her house in an injured condition and



revealed that one Garib Nawaz with whom she had love affair had taken her and raped her on the pretext of marriage. Allegation upon the petitioner is that he was seen with the co-accused Garib Nawaz and while the said co-accused Garib Nawaz stabbed her with knife on her abdomen and shoulders and while her daughter was fleeing away, the petitioner tried to catch her along with the co-accused Garib Nawaz.

It has been submitted by the learned counsel for the petitioner that he is innocent, bears no criminal history and no overt act has been alleged against him neither of rape or assault and that no case under Section 302 is made out against him. He further submits that Section 376 of the I.P.C. is not applicable and that there is no eye witness to the alleged occurrence. He submits that charge-sheet has already been submitted and there is no allegation of tampering of the prosecution witnesses. He undertakes to co-operate in the trial and not to tamper with the prosecution witnesses.

However, learned APP for the State opposes the prayer for bail.

Considering the facts and circumstances and the



materials on record, let petitioner, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge (POCSO), Purnea in connection with Special Case No. 74 of 2017 arising out of Baisi P.S. Case No. 177 of 2017, subject to the conditions that:

- (1) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.
- (2) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(Nilu Agrawal, J)

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