

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23128 of 2018

Arising Out of PS. Case No.-3 Year-2018 Thana- TIYAR District- Bhojpur

Sushil Paswan @ Shushil Paswan, Son of Sri Indradeo Paswan, Resident of Village - Kamriaon, Police Station - Tiar in the District of Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Akhileshwar Prasad Singh, Sr. Adv. Mr. Prabhu Narayan Sharma
For the Opposite Party/s	:	Mr. Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 26-04-2018 Heard learned counsels for the petitioner and State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 354A, 354B and 504/34 of the IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012.

The prosecution case, as per the written report of Pinki Kumari dated 14.01.2018, submitted to the Station House Officer, Tiya Police Station is to the effect that on 13.01.2018 at about 9 PM, the informant was going to ease out in the field. In the meantime, co-accused Birendra Paswan and the petitioner Sushil Paswan came out from their houses and started abusing and assaulting the informant. It is specifically alleged that co-accused Birendra Paswan assaulted with fists and slaps on the



back of the informant and snatched the 'Shawl' of the informant. The petitioner abused the informant and caught her hand. In the meantime, when the informant raised alarm, her mother came on the spot then the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioner that for the occurrence of 13.01.2018 at 9 P.M., the FIR was registered on 14.01.2018 at 12.05 PM when the distance of the police station from the place of occurrence is about four kilometres. Hence, after due deliberation, the FIR was lodged and even assuming the accusation to be true, no offence under Sections 354A or 354B IPC is made out against the petitioner. However, the informant, after two days of the occurrence, on 15.01.2018, got her statement recorded under Section 164 Cr. P.C. wherein she stated that she was going to ease out on 14.01.2018 at 6 AM when co-accused Birendra Paswan forcefully took her to his house and on alarm being raised, he assaulted her. Thereafter, he pushed her on the bed and ravished her and then the petitioner also ravished her. Both the accused persons abused her and thereafter they drove her out from the house in a naked state. The statement of the victim, recorded under Section 164 Cr. P.C., reflects that the informant has not only changed the date and time of occurrence, but completely changed the manner of



occurrence. Admittedly, after recording of statement of the victim, under Section 164 Cr. PC., the informant was medically examined when the doctor did not find any injury on her person, particularly on her private part, nor did he find any sign of rape. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that there is specific accusation against the petitioner in the FIR. However, he concedes that accusation levelled in the FIR and in the statement of the informant recorded under Section 164 Cr. P.C., is quite inconsistent to each other.

Considering the delayed lodging of the FIR, inconsistent version of the informant as she not only changed the date and time of occurrence but also complete manner of occurrence in her statement recorded under Section 164 Cr. P.C. statement, moreover, the accusation is not being corroborated with the medical opinion, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge, Ara,



Bhojpur in connection with Tiar P.S. Case No. 03 of 2018,
subject to the condition as laid down under Section 438(2) of
the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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