

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6020 of 2019

Arising Out of PS. Case No.-108 Year-2018 Thana- SARSI District- Purnia

Abhinandan Kumar @ Mannu, aged about 28 years, Gender – Male, Son of Hari Narayan Mehta Resident of Village- Maswariya, West Tola, P.S.-Sarsi, Distt.-Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Mr.Satyavrat Verma

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-02-2019 Heard learned counsel for the petitioner and learned APP for the State.

The petitioner is languishing in custody since 06.09.2018 in a case registered for the offences punishable under Sections 376, 504, 506/34 of the Indian Penal Code and Sections 4/8 of the Prevention of Children from Sexual Offences Act, 2012.

The prosecution case as per the written report of Ruchi Kumari submitted to the Station House Officer of Sarsi Police Station is to the effect that on 03.08.2018 at 6.00 P.M., when the informant was returning from agriculture field where her father was working, the petitioner caught hold of the informant and ravished her, thereafter, the petitioner escaped from the scene. The informant came to her house and conveyed



her father about the incidence when the father of the informant went to the house of the petitioner and made complaint about that, the family members of the petitioner abused and assaulted the father of the informant. Thereafter, in the night, a panchayati was held and the victim was assured that the issue will be resolved soon, but no concrete decision was taken in this regard.

It is submitted by learned counsel for the petitioner that for the occurrence of 03.08.2018, the written report was submitted on 08.08.2018. In the medical report, no external or internal injury has been found and hymen has been found old ruptured. It is further submitted that from the own admission of the informant in the First Information Report, the victim was aged about 18 years on the date of the alleged occurrence, hence, no case under POCSO Act is made out and on conclusion of the investigation, though, the charge sheet has been submitted under Sections 354, 354B of the Indian Penal Code and Section 8 of the POCSO Act and the informant has retracted from the initial version and filed a petition to that effect before the learned Court below. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP, however, submits that the accusation is



specific against the petitioner. In the statement recorded under Section 164 of the Cr.P.C. the victim has reiterated the accusation of rape by the petitioner, moreover, possibility of rape has not been ruled out in the medical opinion. However, learned APP admits that the charge sheet has not been submitted under Section 376 of the Indian Penal Code.

Considering the fact that the informant in the first information report has admitted her age as 18 years which, prima facie, does not attract the accusation under the POCSO Act, the accusation being not corroborated by the medical opinion and the fact that the investigation has already been concluded, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released 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) Act, Purnea in connection with Special Case No. 139 of 2018/CIS 139 of 2018, arising out of Sarsi P.S. Case No. 108 of 2018.

(Dinesh Kumar Singh, J)

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