

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5489 of 2019

Arising Out of PS. Case No.-223 Year-2018 Thana- BASOPATTI District- Madhubani

Kuseshwar Mandal, son of Sufal Mandal, Resident of Village- Virpur, P.S.-
Basopatti, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 30-04-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 447, 341, 323, 376, 504/34 of the Indian Penal Code in connection with Basopatti P.S. Case No. 223 of 2018.

Petitioner and co-accused Ashok Sah allegedly entered into the house of the informant and committed rape against her. The case diary would reveal that the female of the neighborhood have stated before the police that soon after the occurrence on the alarm of the victim they came out and came to know that the named two accused persons committed rape against her.

Learned counsel for the petitioner submits that for



some other trivial dispute false allegation has been levelled by the victim. The doctor has not found during medical examination any sign of sexual assault, though the victim was examined on the very next day of the occurrence.

Further submission is that there is long gap of age between the victim and the petitioner. The doctor has opined that the victim is above 25 years. The victim disclosed her age about 35 years. She is an illiterate lady. Age of co-accused Ashok Sah is 40 years and that of the petitioner is 22 years.

Considering the material available on the record, I do not find any reason to disbelieve the victim at this stage. Hence, I am not inclined to enlarge the petitioner on bail only for the reason that co-accused has been granted bail by a Co-ordinate Bench of this Court. Hence, his prayer for bail is refused.

Learned Trial Court is directed to expedite the trial and conclude the same preferably within nine months, failing which the petitioner would be at liberty to renew the prayer for bail before the court below itself.

(Birendra Kumar, J)

Banti/Rajan

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