

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9755 of 2019

Arising Out of PS. Case No.-176 Year-2018 Thana- MATIHANI District- Begusarai

Abdhesh Rai, Son of Kamo Rai @ Kamli Rai, Resident of Village –
Raichiyahi, Purana Tol, P.S. Matihani, District – Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Sumiran Rai

For the Opposite Party/s : Mr.Murli Dhar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 21-08-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 376(g)/34, 120B, 366A of the Indian Penal Code and Sections 4/8 of Prevention of Children from Sexual Offences Act, 2012.

The prosecution case as per the written report of Ganesh Mahto submitted to the Station House Officer of Matihani Police Station on 09.12.2018 is to the effect that on 07.12.2018 the daughter of the informant namely, Rubi Kumari, aged 12 years, went to her maternal grandmother's village, Raichiyahi kutchery Tol along with her friend Jyoti Kumari but she did not return. On 08.12.2018, the daughter of the informant returned and disclosed that she was kidnapped by Sumit Kumar,



Vivek Kumar, Santosh Kumar and one unknown by motorcycle and they took her in the house of the petitioner, Abdhesh Rai. She further disclosed that petitioner Abdhesh Rai and his wife Vibha Kumari were guarding the accused when co-accused ravished her. Subsequently, she was sent home by co-accused Sumit Kumar, who also gave one mobile phone and clothes to the daughter of the informant. On 09.12.2018, one boy Golu Kumar came and conveyed the informant that Sumit has sent mobile phone and clothes for the victim, then Golu Kumar was caught and handed over to the police. Thereafter, the FIR was registered against the petitioner and other accused persons by the father of the victim.

It is submitted by learned counsel for the petitioner that as per the FIR the thrust of accusation of kidnapping is against co-accused Sumit Kumar, Vivek Kumar, Santosh Kumar and one unknown. The victim in her statement recorded under Section 164 Cr.P.C. has not named the petitioner nor she has stated that she was taken to the house of the petitioner. Moreover, the wife of the petitioner, who has been named in the statement recorded under Section 164 Cr.P.C, has been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 27.02.2019 passed in Cr. Misc. No. 12207 of 2019.



It is further submitted that on conclusion of the investigation, the charge sheet has been submitted under Sections 366A, 354B and 342/34 of the Indian Penal Code. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the FIR was lodged by the father of the victim on the information supplied by the victim which clearly suggests that the victim was taken to the house of the petitioner by other accused persons where the petitioner and his wife were guarding the victim when the others committed the offence.

Considering the delayed lodging of the case, which has been lodged on 09.12.2018, i.e., after return of the victim from the house of the petitioner, the victim has not named the petitioner in her statement recorded under Section 164 Cr.P.C. nor she has stated that she was taken to the house of the petitioner, when the wife of the petitioner, Vibha Kumari was named by the victim in her statement recorded under Section 164 Cr.P.C., who has been granted anticipatory bail by a Co-ordinate Bench of this Court 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 anticipatory bail in the event of arrest or 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 the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai in connection with Matihani P.S. Case No. 176 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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