

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.13351 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- MAHILA P.S. District- Saran

Sonu Kumar @ Santu Kumar, Son of Anil Singh, Resident of Village-Gaura,
P.S.-Marhowrah, Gaura O.P., District-Saran at present village Senuari, P.S.-
Marhowrah, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opposite Party/s : Mr. Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 06-03-2019 Heard learned Counsels for the petitioner and
learned APP for the State.

The petitioner is apprehending arrest in a case registered
for the offences punishable under Section 376/34 of the Indian
Penal Code and Sections 3 and 4 of the POCSO Act.

The prosecution case as per the written report of Mamta
Kumari submitted to SHO, Mahila Police Station is to the effect
that the co-villager Amit Kumar, on pretext of marriage, took
her to his house to introduce her to his parents while she was
returning from her school. The parents of co-accused Amit



Kumar instigated her to flee away with co-accused Amit Kumar and marry him without dowry. In pursuance to that, she left the house of his parents on 10.10.2016 and from there the co-accused Amit Kumar and his friend Santu Kumar (petitioner) took her to Patna on motorcycle and from where she went to Ambala by train and from there they went to Himachal Pradesh by bus. In Himachal Pradesh they stayed in a rented house of Rinki Devi, sister of the petitioner, where the co-accused Amit Kumar established physical relationship with the informant. It is further alleged that after four months, parents of co-accused Amit Kumar also reached there and gave her assurance for her marriage with the co-accused Amit Kumar. Subsequently, on 22.02.2018, she was taken to Chapra where she gave her statement to the police as per the instruction of parent of co-accused Amit Kumar, and thereafter, she was handed over to her father.

It is submitted by learned counsel for the petitioner that prior to institution of the present case, the father of the informant had lodged Marhowrah P.S. Case No.479 of 2016 for the same occurrence of 10.10.2016 and on 18.10.2016 accusation with the offences punishable under Sections 366A, 504 and 506 read with Section 34 of the Indian Penal Code



against co-accused Amit Kumar and his parents for abducting the informant. In the said case, the petitioner was not named. However, in the said case the statement of the victim was recorded under Section 164 of the Cr.P.C. in which she had disclosed her age as 18 years on 23.02.2018, whereas the Magistrate, who recorded her statement, assessed her age as 19 years. In her statement under Section 164 Cr.P.C., she had categorically stated that her family members wanted to kill her by administering poison and therefore, she left her house out of her and on her own sweet will and thereafter she went to Kolkata. She has further stated that she was not being abducted by anyone. On conclusion of the investigation, the police found the case against the co-accused Amit Kumar and his parents to be false and a final report was submitted vide Charge-Sheet No.103 of 2018 dated 31.03.2018, thereafter, the instant case has been instituted on 12.03.2018 with false allegations against the petitioner and other co-accused persons, where for the first time, the petitioner has been made accused in the case for the same occurrence dated 10.10.2016. Hence, the institution of the present case is nothing, but an abuse of process of the Court at the instance of the parents of the informant, who somehow or other want to Jeopardise the career of the co-accused Amit



Kumar and they have also roped the petitioner in the present case. It is further submitted that the thrust of accusation against co-accused Amit Kumar and his parents, who have been granted anticipatory bail by the Co-ordinate Benches of this Court vide order dated 06.10.2018 and 28.06.2018 passed in Cr. Misc. No.56848 and 34042 of 2018 respectively.

It is submitted by learned APP for the State that accusation is specific against the petitioner and the statement of the victim under Section 164 of the Cr.P.C. was recorded under the influence of the parents of co-accused Amit Kumar.

Considering the fact that for the same occurrence, earlier a case was registered in which the petitioner was not named in the FIR and thrust of accusation is against co-accused Amit Kumar, who has been granted anticipatory bail coupled with statement made in paragraph no.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 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned **Additional Sessions Judge 1st, Chapra, Saran** in connection with **Mahila P.S. Case**



No.09 of 2018, subject to the conditions as laid down under
Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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