

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26668 of 2019

Arising Out of PS. Case No.-159 Year-2018 Thana- BUXAR INDUSTRIAL District- Buxar

Sahjada @ Sahzada Khan Son of Nasim @ Nasim Khan Resident of Village -
Badki Sarimpur, P.s.- Buxar (Industrial Area), Distt.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 20-08-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner who is in custody since 28.01.2019 has filed the instant application for grant of bail in connection with Buxar (Industrial Area) P.S. Case No. 159 of 2018 registered for the offence punishable under section 376 of the Indian Penal Code and section 4 of the POCSO Act.

The allegation as per the FIR lodged by the 16 year old informant is that she had been living in her maternal grand father's place for the last three months where the petitioner was on visiting terms and having mislead her that he would marry her, established physical relationship with her and exploited her. It is alleged that he and his mother are creating problems for her maternal grand father's family and that the petitioner continued to commit rape on her.



It is submitted by learned counsel for the petitioner that from the FIR it would transpire that the alleged occurrence of 16.08.2018 is said to have taken place in Vindhyavasini Guest House at Munim Chowk whereas in course of investigation, all the rooms of the said guest house were found to be closed. It was further submitted that in her medical examination conducted on 24.08.2018 i.e. the finding as per the doctor is that she had sexual act in the past. It was further submitted that in her statement under section 164 Cr.P.C., she has stated that she was not agreeable to enter into physical relationship before their marriage. It was submitted that this statement demolishes the prosecution story at its very root and the refusal of the petitioner to marry the informant is the cause of his false implication.

It was submitted by learned counsel for the informant that the petitioner is a minor. Further on medical examination her age was assessed to be between 13-14 years and not only in the FIR but also in her statement under section 164 Cr.P.C she has categorically stated that the petitioner committed rape on her.

The application for bail was also opposed by learned APP for the State.



Having heard learned counsel for the parties and taking into consideration that the informant was found to be aged 13-14 years in medical examination and that there is direct allegation against the petitioner in the FIR which is subsequently supported by the statement of the informant under section 164 Cr.P.C., the court is not inclined to grant bail to the petitioner and as such his application for bail is rejected.

(Partha Sarthy, J)

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