

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53644 of 2018

Arising Out of PS. Case No.-396 Year-2017 Thana- NAANPUR District- Sitamarhi

Md. Talib @ Talib, son of Dr. Mohi, resident of village Sharifpur, P.S. Nanpur, District Sitamarhi

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ashhar Mustafa, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

4 14-02-2019 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 341, 323, 354, 376, 504, 506 and 34 of the Indian Penal Code and Section 4 of the POCSO Act registered in connection with Nanpur P.S. Case No. 396 of 2017.

3. It is submitted that the petitioner has been falsely implicated and as a matter of fact, there is love affair between the petitioner and the so-called victim girl. It is submitted that according to the medical report, the age of the girl has been assessed at 16-17 years and given the benefit of two years remission of age in either side. She has stated that she is major hence the provisions of the POCSO Act would not be attracted. It is further submitted that neither the parents nor the brother of the girl have made any allegation with regard to establishing physical relationship with the petitioner. The statement of the girl has also not been recorded under Section 164 of the Cr. P.C. It is submitted that having regard to the observations of the Hon'ble Supreme Court in *Dr. Dhruvaram Murlidhar Sonar Vs. the State of Maharastra* (Cr. Appeal No. 1443



of 2018), the girl must be treated as having given her conscious consent for establishing physical relationship with the petitioner and as such no offence, as alleged is made out against the petitioner. The petitioner claims clean antecedents.

4. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge (POCSO) Act, Sitamarhi in connection with Nanpur P.S. Case No. 396 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and with further conditions --

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

BT/Chandran

(Vikash Jain, J)

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