

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.65413 of 2018

Arising Out of PS. Case No.-1 Year-2015 Thana- NIRMALI District- Supaul

=====

Pankaj Paswan, S/o Late Waso Ranjan, Resident of Mohalla-Vastukala
Dhanser, P.S....., Distt.-Dhanbad (Jharkhand).

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rukmini Devi W/o Sri Sanjay Kumar Paswan R/o Nirmali Ward No.6,
P.S....., Distt.-Supaul.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Dipak

For the Opposite Party/s : Mr.Binay Krishna

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 29-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
22.06.2018 in a case registered for the offences punishable
under Sections 366, 120B/34 of the Indian Penal Code,
Sections 3(1) (xi) of SC/ST (Prevention of Atrocities) Act and
Section 66 of Information Technology Act.

The prosecution case as per the written report of
Rukmini Devi submitted to the Station House Officer of Nirmali
Police Station is to the effect that on 31.12.2014 at 5.00 A.M.
when the informant woke up then she found that her daughter
namely, Namita Anand @ Neha, aged 18 years, missing then the
search was made and on 02.01.2015 the villagers conveyed that
the daughter of the informant was seen in the company of



Gaurav Kumar @ Kumar Gaurav on 31.12.2014 going towards Bhutaha Chowk. It is alleged that on 10.12.2014 the informant received mobile call, who claimed to be Kumar Gaurav and who wanted to talk with the daughter of the informant. On 02.01.2015 the son of the informant, Kunal Shekhar met with Kumar Gaurav and inquired about Neha. On pressurizing, the said Kumar Gaurav stated that Arti Kumari, the friend of Neha knows everything when Kumar Gaurav used to talk with Neha. The informant claimed that her daughter Neha was kidnapped by Kumar Gaurav, her parents and Arti Kumari.

It is submitted by learned counsel for the petitioner that the petitioner was not named in the FIR. His name sprang up in the statement of Neha recorded under Section 164 Cr.P.C. where she stated that she was in love with Kumar Gaurav when Kumar Gaurav forcibly established physical relationship with her on the way of school. On the date of the occurrence Kumar Gaurav and others forcibly took the daughter of the informant and on the way, after drinking water she became unconscious and thereafter she found herself in Dhanbad in the house of the petitioner when it is alleged that the petitioner forcibly established physical relationship with her. It is further submitted by learned counsel for the petitioner that, in fact, in pursuance to



the love affairs the daughter of the informant, Neha has performed marriage with the petitioner and to that effect affidavit dated 03.01.2015 has been brought on record, as Annexure-3 but upon pressure of the family members, the accusation has been levelled against the petitioner in the statement recorded under Section 164 Cr.P.C. The medical report suggests that the victim was 17-18 years of age and no sign of rape. The investigation has already been concluded and for the occurrence of 31.12.2014, the FIR was registered on 03.01.2015. A statement has been made in paragraph 3 of the petitioner that the petitioner is not having any criminal antecedent.

Learned APP submits that the victim has alleged the commission of rape by the petitioner.

Considering the delayed lodging of the case, the statement of the victim recorded under Section 164 Cr.P.C. suggests that the conduct of the victim was also not very fair and the medical report does not suggest any injury particularly, on the private part which substantially negates the accusation, 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 bail, on furnishing bail bond of



Rs.10,000/- (Ten thousand) with two sureties of the like amount
each to the satisfaction of learned Sub-divisional Judicial
Magistrate, Birpur, District - Supaul in connection with
Nirmali P.S. Case No. 01 of 2015.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

