

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45145 of 2019

Arising Out of PS. Case No.-20 Year-2019 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Rakesh Kumar @ Bitan Kumar, aged about 24 years (Male), Son of Nathuni Yadav @ Nathuni Singh, Resident of Village - Bhadola, P.S.- Kudra, District - Kaimur at Bhabhua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sheo Kumar Prasad and Mr. Santosh Kumar Pandey, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 11-12-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Mahila (Bhabhua) PS Case No. 20 of 2019 dated 16.03.2019 instituted under Sections 376AB of the Indian Penal Code and 6 of the POCSO Act.

3. The allegation against the petitioner is of committing rape on the five years old daughter of the informant.

4. Learned counsel for the petitioner submitted that the allegation is false and because of some dispute between the parties, he has been falsely implicated. It was submitted that the Medical Board has not found any sign of sexual intercourse or



injuries on the body of the girl and the hymen has also been found to be intact. It was further submitted that the petitioner is in custody since 18.03.2019.

5. Learned APP, from the case diary submitted that the Medical Board has opined that sexual assault cannot be denied and further the victim girl has also made statement before the Court under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') alleging sexual assault by the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

7. Accordingly, the application stands dismissed.

8. Having perused the case diary, especially the report of the Medical Board and the statement of the victim under Section 164 of the Code, the Court is constrained to observe that the medical report has been prepared in a most perfunctory manner, which would be obvious from the records itself. As the Court would not like to record the basis of such opinion in the order, the Court would request the Superintendent of Police, Kaimur as also the members of the Medical Board i.e., Dr. (Mrs.) Kiran Singh, Gynecologist, Sadar Hospital, Bhabua; Dr. K K Singh, Dental



Surgeon, Bhabhua and Dr. Vinay Tiwari, MO, Sadar Hospital, Bhabhua to appear before it with all relevant records on 13th January, 2020, when the matter be listed in Chambers at 4:00 PM.

9. Mr. Jharkhandi Upadhyay, learned APP shall communicate the order to the officers concerned.

10. Let the name of Mr. Jharkhandi Upadhyay, learned APP be printed in the cause list in the column of the opposite parties.

(Ahsanuddin Amanullah, J.)

P. Kumar

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