

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75645 of 2018

Arising Out of PS. Case No.-89 Year-2018 Thana- MAHILA P.S. District- Nalanda

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Ravi Mishtri, S/o Late Parmod Mishtri, R/o Village- Pachauri, P.S.-
Deepnagar, District- Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 24-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
10.09.2018 in a case registered for the offence punishable
under Sections 376 (d) of the Indian Penal Code.

The prosecution case got initiated on the basis of
written report of Varsha Kumari submitted to the Station
House Officer, Bihar Sharif Mahila Police Station is to the
effect that on 30.08.2018 when the informant's mother went to
Jamshedpur, the informant and her sister Gunja Kumari were
sleeping in her house after locking the door of the house. At
about 01.00 A.M. four accused persons covering their face
entered into the house with pistol. It is alleged that one of them
disrobed the informant and ravished her. When the informant's
sister raised alarm, all of them flee away. Subsequently, the



person who ravished her was identified by the informant as Mukesh Mistri since he left his pant while fleeing away from the house. The FIR was lodged against Mukesh Mistri, but in subsequent as well as statement recorded under Section 164 of the Cr.P.C., the victim has changed her version and has stated that she was ravished by all the four accused persons one by one and she has named the petitioner also.

It is submitted by learned counsel for the petitioner that the specific case in the FIR is that the victim was ravished by co-accused Mukesh Mistri, who left his pant and mobile phone in the house of the informant, but the informant changed her version in her subsequent statement as well as statement recorded under Section 164 of the Cr.P.C. and has alleged that all the four persons ravished her one by one. It is further submitted that the medical opinion suggests no injury, being caused to the informant when she was medically examined after one day of the alleged occurrence. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned counsel for the informant that in the statement recorded under Section 164 of the Cr. P.C., the victim has alleged that all the four accused persons



ravished her one by one and has named the petitioner in the occurrence.

Learned APP after going through the case diary submits that the medical opinion does not suggest any injury to the informant. However, it appears from the FIR and subsequent statement as well as statement of the victim recorded under Section 164 of the Cr.P.C. that the victim has specifically alleged that she was only ravished by the co-accused Mukesh Mistri.

Considering the inconsistency between the FIR and subsequent statement of the informant recorded under Section 164 of the Cr.P.C., the accusation being not corroborated by the medical opinion, 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 bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Nalanda at Bihar Sharif, in connection with Mahila P.S. Case No. 89 of 2018.

(Dinesh Kumar Singh, J)

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