

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72361 of 2018

Arising Out of PS. Case No.-181 Year-2017 Thana- KHAJEKALA District- Patna

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Mahesh Kumar @ Mahesh Kumar Mandal, Son of Late Mallu Mandal,
Resident of Sudama Singh Ke Makan Me, Birla Mandir Road, Bhawar
Pokhar, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Ardhendumauli Kumar Prasad, Advocate Mr. Shashi Shekhar Kumar Prasad, Advocate
For the State	:	Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

7 29-03-2019 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The petitioner is in custody since 09.01.2018 in connection with Khajekala P.S. Case No.181 of 2017 registered for the offence under Section 366(A)/34 of the Indian Penal Code and later on chargesheet has been submitted under Section 366(A), 363, 376 of the Indian Penal Code and Section 4 of the POCSO Act.

Learned counsel for the petitioner submits that though it is alleged that the girl is 17 years of age, which would attract the provisions of POCSO Act and that the medical examination has revealed that the victim girl is between 17-19 years of age, the petitioner has already been in jail for one year and is willing



to appear before the court as and when required by it so that the trial of the case may not be prejudiced.

Addressing the Court on the merits of the case, learned counsel for the petitioner submits that the present petitioner has been falsely implicated in the case only on account of the fact that there was some pressure on him to marry the victim girl which was being denied by him. It is further submitted that the medical report does not indicate any sign of rape and the statement made under Section 164 Cr.P.C. is a fiction and a creation of the mind of the concerned victim lady. He further submits that it is hardly possible that a girl would be kidnapped in broad daylight in a congested area such as the place from Khajekala and carried to Khaitan Market, which is equally a congested place. He thus submit that there being a distinct cloud on the prosecution story, the petitioner may be extended the privilege of bail.

Learned counsel for the State has perused the case diary and has also submitted that one of the neighbours of the area from where the girl was recovered has stated that the victim girl was living with the accused-petitioner like husband and wife for the past one month and it was only subsequent thereto, that the present case has been lodged. He further submits that the age of victim girl as determined by the Medical Board has



been fixed between 17-19 years and the report also does not indicate any sign of rape.

Considering the aforementioned facts and circumstances of the case and that the petitioner has no criminal antecedents and has already been in custody for over one year, let the petitioner, above named, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-I, Patna, in connection with Khajekala P.S. Case No.181 of 2017.

(Anjana Mishra, J)

PNM/Rakesh

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