

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.41757 of 2019

Arising Out of PS. Case No.-289 Year-2018 Thana- MAHUA District- Vaishali

Md. Niyaj Ahmad @ Naj @ Neyas Alam Aged about 22 years, Male, Son of Imamuddin, Resident of Village-Sembhopatti, P.S.-Mahua, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mrs. Soni Shrivastava,
Mr. Ravi Bhardwaj, Advocates
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 08-07-2019 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 354B, 376, 307, 323, 324, 511 and 506/34 of the Indian Penal Code and Section 8/18 of the POCSO Act registered in connection with Mahua P.S. Case No. 289 of 2018.

3. It is submitted that the petitioner has been falsely implicated in the backdrop of land dispute as the informant is the own uncle of the petitioner. The accusations are highly doubtful and improbable that the informant's daughter would be alone at 5 A.M. in the house and the petitioner would have entered the house to commit the offence on that hour, and immediately thereafter the mother and the elder sister of the informant would have come to her rescue. The age of the so-called victim girl stated as 12 years is not supported by the injury report which estimates her age to be about 15 to 16½ years. She has also refused internal examination by the doctor which casts doubt with regard to the accusations. The informant claims that



the so-called victim girl is his daughter which however is in conflict with the affidavit of his own brother Aftab Alam claiming her to be his own daughter. 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 four weeks from the date of communication of this order, let the above named petitioner be released on provisional bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District & Sessions Judge-1 cum Special Judge, Hajipur, Vaishali in connection with Mahua P.S. Case No. 289 of 2018, subject to the conditions as laid down under Section 438 (2) of the 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.

(v) That the petitioner shall produce the affidavit of Aftab Alam (Annexure-2) in original before the learned court below within a period of four weeks.

5. The provisional bail shall be confirmed upon verification by the court below about the genuineness of the affidavit and upon verification from the injury report of the informant's daughter issued by Sadar Hospital, Hajipur, Vaishali with regard to the age of victim girl and her refusal for internal examination within



a further period of four weeks thereafter, failing which his bail bond shall stand automatically cancelled.

(Vikash Jain, J)

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