

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1405 of 2019

Arising Out of PS. Case No.-211 Year-2016 Thana- NAUBATPUR District- Patna

Shailendra Kumar @ Shailendra Prasad S/o Late Dilipan Rai @ Dalipan Prasad R/o village- Selgarh, P.S.- Ranitalab, Distt.- Patna

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar, Patna Bihar
2. The Senior Superintendent of Police, Patna Bihar
3. The Rural Superintendent of Police, West Patna Bihar
4. The Deputy Superintendent of Police, Naubatpur Bihar
5. The Officer in Charge of Naubatpur Police Station Bihar

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.
For the Respondent/s : Mr. Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-10-2019

The petitioner is a named accused in Naubatpur P.S. Case No. 211 of 2016 dated 23.07.2016 registered under Sections 366-A and 376 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The police investigated the case and submitted charge-sheet vide charge-sheet no. 59 of 2017 dated 26.04.2017.

2. The allegation made against the petitioner was found true in course of investigation and he was sent up for trial. He was taken into custody on 01.04.2017. His application for bail was



rejected by the trial court and subsequently by this Court on 25.07.2017 vide Cr.Misc. No. 30359 of 2017.

3. The trial of the case is going on and several witnesses have already been examined.

4. At this stage, the instant application has been filed by the petitioner under Articles 226 and 227 of the Constitution of India for quashing the entire criminal prosecution including the order taking cognizance and the order framing charges on the following grounds :-

- (a) The investigation of the case was tainted;
- (b) The statement of the alleged victim was not recorded under Section 164 of the Code of Criminal Procedure;
- (c) The age of the victim was not ascertained by the investigating agency; and
- (d) The alleged victim was not examined by Medical Board during investigation.

6. The points taken by the petitioner for the purpose of quashing the entire criminal prosecution are in the nature of defence, which can be urged by him at appropriate stage during trial. They cannot form the basis for challenging the order taking cognizance or the order framing charges.



7. The application is misconceived. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A
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