

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56161 of 2018

Arising Out of PS. Case No.-258 Year-2018 Thana- HAJIPUR District- Vaishali

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Raja Kumar, S/o Bablu Singh @ Rajiv Ranjan Singh, aged 22 yrs. Resident of
Mohalla Pokhra, P.S.- Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Prakash Sahay, Adv.
For the State	:	Mr. Ganesh Prasad Singh, APP
For the Informant	:	Smt. Rina Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 04-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 342/323/504/354/506 of the I.P.C. and Section 7/12 of the POSCO Act.

The prosecution case as per the written report of Nandani Kumari, dated 21.04.2018, submitted to the S.H.O., Hajipur Town P.S., is to the effect that the petitioner called the informant at his house and insisted for doing illicit act. On protest being made, the petitioner slapped the informant and put sickle on her neck and tried to strangle her by putting pillow on her mouth. On alarm being raised, younger sister of the



informant came and started raising alarm, then the petitioner also chased her with sickle in his hand.

It is submitted by the learned counsel for the petitioner that in the written report, the victim girl recorded her age as eight years whereas the Court in 164 Cr. P.C. statement assessed her age as eleven years. In 164 Cr. P.C. statement, the victim stated that she was taking water from the back portion of her house, in the meantime, the petitioner came and after catching hold of her hand took her in his room and asked her to do illicit things. Hence, even assuming the accusation levelled against the petitioner in the FIR, as well as in 164 Cr. P.C. statement, to be true, no offence either under Section 354 of the I.P.C. or under Section 7 of the POSCO Act, which defines sexual assault or Section 12 of the POSCO Act which defines sexual harassment, is made out. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP, after going through the case diary, submits that the accusation levelled against the petitioner in the FIR has been supported by the victim in her statement recorded under Section 164 Cr. P.C. However, there is no eye witness to the occurrence.



Considering the totality of the accusation levelled in the FIR and 164 Cr. P.C. statement, this Court prima facie finds that the offence under Section 7 of the POSCO Act is, prima facie, not made out, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below with a period of 12 weeks from today, on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like each to the satisfaction of learned **Chief Judicial Magistrate, Vaishali** in connection with **Hajipur Town P.S. Case No. 258 of 2018**, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

Let the case diary be returned forthwith.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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