

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56507 of 2019

Arising Out of PS. Case No.-34 Year-2019 Thana- MAHILA P.S. District- Rohtas

BAIJNATH PRASAD @ BAIDYANATH PRASAD @ VAIDYANATH, Son
of Jawahar Prasad, Resident of Darihat, Ward No.-3, P.S.- Darihat, District-
Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh, Adv.

For the Opposite Party/s : Mr. Braj Kishore Pd.(APP)

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 11-12-2019 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

2. Informant (name withheld) along with her friend
(name withheld) were waiting for vehicle, a car bearing
Registration No.WB-38S-6747 came and the occupant thereof,
dragged both of them and took them away to a house where she
was raped. The other miscreants took away her friend and where
they have also misbehaved with her. Furthermore, there happens
to be proper identification of the petitioner in the background of
the fact that after obtaining her mobile number, he frequently
used to call her.

3. Learned counsel for the petitioner has submitted
that the petitioner has wrongly been remanded in this case, more



particularly when, the victim in her statement under Section 164 of the Cr.P.C. (para 52) failed to identify the petitioner by his name though, substantiated the case of rape and so, in the facts and circumstances of the case, the petitioner should be released on bail.

4. The learned Additional Public Prosecutor opposed the same.

5. Call details have been taken out and from para 86 it is evident that the petitioner used to call on the mobile of the victim. It is further evident from para 90 of the case diary that the date of birth of the victim happens to be 28.10.2003. That means to say, on the alleged date she was less than 16 years. In the aforesaid background presumption would be under the guise of POCSO Act. So, the petitioner has to rebut the same. Apart from this, from paragraph 67 of the case diary it is evident that victim was taken away by the police and during course of perceiving the location identified a hotel, where she was raped.

Consequent thereupon, the prayer for bail is rejected.

(Aditya Kumar Trivedi, J)

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