

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.77299 of 2018

Arising Out of PS. Case No.-139 Year-2018 Thana- MAKER District- Saran

Raju Sah, Son of Dharmnath Sah, Resident of Village – Pir Maker, P.S.
Maker, District – Saran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kunal Tiwary

For the Opposite Party/s : Mr.Sri Rajendra Prasad Nat

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 08-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 21.09.2018 in a case registered for the offences punishable under Section 377 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

The prosecution case as per the written report of Narayan Singh submitted to the Station House Officer of Maker Police Station is to the effect that the son of the informant, Sanjay Kumar is mentally abraded and used to go out of the house frequently. On 15.09.2018 the son of the informant came and conveyed his mother that on the previous night, the petitioner Raju Sah took him behind his shop and committed unnatural offence, as a result, he received bleeding injury. The



informant took his son to Primary Health Centre, Maker from where he was referred to Sadar Hospital.

It is submitted by learned counsel for the petitioner that for the occurrence of 15.09.2018, the written report was submitted on 20.09.2018. In the medical report no sign of unnatural offence has been found as there was no external or any injury being found on the anal part. Though, the doctor has opined that the possibility of unnatural offence cannot be ruled out. The age of the victim has been assessed between 18 to 19 years. It is further submitted that in view of the age determined by the doctor, no offence under Sections 4 and 6 of the POCSO Act or under Section 377 of the IPC is made out. Moreover, in the background of inimical relationship from before, the accusation has been levelled against the petitioner and petitioner was outside of State on the date of alleged occurrence. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP after going through the case diary submits that the case of informant is specific and the doctor has suggested that the possibility of unnatural offence cannot be ruled out.

Considering the delayed lodging of the case,



accusation not being corroborated by medical opinion, particularly, the claim of the informant to the effect that victim had bleeding injury, victim being not found minor in medical opinion and that too though the FIR was registered on 20.09.2018 at 1.15 P.M. and thereafter the medical examination was done on 20.09.2018 at 4.20 P.M. and the investigation being concluded, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saran in connection with Maker P.S. Case No. 139 of 2018.

(Dinesh Kumar Singh, J)

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