

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.72641 of 2018

Arising Out of PS. Case No.-8 Year-2018 Thana- TARABARI District- Araria

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Sawan Paswan, aged 21 years, S/o Karamchand Paswan, resident of Village-
Ghurghura, P.S.- Tarabari, District- Araria (Bihar). Petitioner/s

Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manu Tripurari
Mr. Vagisha Pragya Vacaknavi
Rajeev Ranjan

For the Opposite Party/s : Mr. Sri Rajendra Nath Jha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 10-01-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner is in custody in connection with Tarabari
P.S. Case No. 08 of 2018 for the offence under sections 341,
323, 354B, 504 and 506 read with section 34 of the Indian Penal
Code.

Learned counsel for the petitioner submits that there is
unexplained inordinate delay of 06 days in lodging the FIR.

He next submitted that there is no injury report to
substantiate the allegation of sexual assault.

Learned counsel submits that one of the accused was
found absent from the place of occurrence and on that basis he
submitted that the prosecution case was found false with regard
to one of the accused which suggests that entire prosecution
case is false.



He lastly submitted that petitioner is a student and he deserves to grant of bail at this pre-trial stage after conclusion of investigation.

So far as the delay part is concerned, in matters involving sexual assault it is a matter of common knowledge the people uses to disclose such offence only at the subsequent stage after due deliberation of pros and cons in the family and not earlier. The victim of the instant case has shown courage to report such matter to the police, the delay of 06 days in lodging the FIR is not fatal.

So far as the claim of lack of medical report of sexual assault is concerned, the law in this regard is well settled that medical evidence is not necessary for proving the charge in sexual offence, when the solitary statement of the prosecutrix may be enough for conviction.

However, the Court finds substance in the submission of the counsel for the petitioner that in criminal jurisprudence innocence is a presumption and bail is rule, refusal is exception but the case at hand is on the border line. The petitioner deserves bail only on the consideration that he is a student and his career may be jeopardized if he is kept in confinement as under trial prisoner with hardened criminal.



Considering the totality of the fact discussed hereinabove, the court is inclined to grant bail, let the petitioner, named above, be enlarged 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 Sp. Judge (POCSO), Araria, in connection with Tarabari P.S. Case No. 08 of 2018 on the condition that one of the bailor should be teacher.

(Anil Kumar Upadhyay, J)

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