

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.65276 of 2018

Arising Out of PS. Case No.-47 Year-2018 Thana- MAHILA PS District-
Darbhanga

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Md. Ahsan Zafar @ Md. Zaid, Son of Zafrul Hassan, resident of Village
Bankipur, P.S.- Bahadurpur, District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 09-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 376, 313, 506 of the Indian Penal Code
registered in connection with Mahila P.S. Case No. 47 of 2018.

3. It is submitted that the petitioner has been falsely
implicated and on the informant's own saying in the F.I.R., she is
aged about 19 years and hence a minor. The F.I.R. has been
instituted in the backdrop of the earlier Complaint Case No. 469
of 2018 filed by the father of the petitioner against the informant
and her parents for mar-apeet. It is further submitted that in any
event the accusations against the petitioner do not fulfill the
ingredients of the offence under Section 376 of the Indian Penal
Code as transpires from the recent judgment of the Hon'ble



Supreme Court dated 22.11.2018 in Cr. Appeal No. 1443 of 2018 arising out of S.L.P. (Criminal) No. 6532 of 2018 [Dr. Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and Ors.]. It is submitted that the facts of the case are similar as the petitioner therein was also aged about 19 years and the physical relationship was said to have been established about 8 years and the concerned girl had become pregnant. In the present case, nothing has been brought on record with respect to the averments relating to the informant's pregnancy and abortion.

4. Learned APP assisted by learned counsel for the informant appearing suo motu oppose the bail petition submitting that the at the time of establishing physical relations by the petitioner, the informant was a minor.

5. Be that as it may, having regard to the entirety of the facts and circumstances of the case, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Darbhanga at Laheriasarai in connection with Mahila P.S. Case No. 47 of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions:



(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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