

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52900 of 2018

Arising Out of PS. Case No.-85 Year-2017 Thana- SIGAUDI District- Patna

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Rakesh Mistri, Son of Yogendra Mistri @ Yogi Mistri, Resident of Village -
Narauli Noniyachak, P.S. Sigori, District - Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Opposite Party/s : Mr.Sri Rajendra Singh Shastriji

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 21-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Section 354B of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.

The prosecution case as per the written report of Nilam Kumari submitted to the Station House Officer of Sigori P.S. is to the effect that on 30.08.2017 at 4.30 P.M., the informant was cutting grass in her field, in the meantime, petitioner came, caught hold the informant and tried to outrage her modesty. On alarm raised by the informant, the petitioner fled away from the scene. It is further alleged that earlier also the petitioner tried to outrage the modesty of the informant but



she did not disclose this incident to anyone out of fear and shame.

It is submitted by learned counsel for the petitioner that for the occurrence of 30.08.2017, the written report was submitted on 31.08.2017. It is further submitted that the father of the petitioner, Yogendra Mistri had lodged Sigori P.S. Case No. 84 of 2017 with accusation under Sections 341, 323, 307, 379 and 504/34 of the Indian Penal Code against the brothers of the informant which was registered on 31.08.2017 at 9.15 A.M., whereas the present FIR was registered on 31.08.2017 at 9.30 A.M. subsequent to the registration of the FIR by the father of the petitioner. The FIR dated 31.08.2017 reached to the learned Court below on 06.09.2017 which suggests that the FIR has been antedated, whereas the FIR lodged by the petitioner's side reached to the learned Court below on 04.09.2017. The victim was not medically examined and on the date of occurrence, the victim was not a minor. The injury report of the petitioner side is brought on record. It is further submitted that even assuming the accusation to be true, no offence of sexual assault under Section 8 of the Protection of Children from Sexual Offences Act is made out against the petitioner. 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 witnesses have supported the accusation. However, there is not medical report of the informant on record.

Considering the fact that the FIR was lodged with delay and delayed reaching the same to the Court clouds bonafide of the accusation coupled with the fact that the accusation is not being corroborate with the medical opinion and the petitioner is having no criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Ist -cum- Special Judge, Patna in connection with Sigori P.S. Case No. 85 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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