

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.67350 of 2018

Arising Out of PS. Case No.-195 Year-2018 Thana- BELAGANJ District- Gaya

Chandan Kumar Son of Jairam Choudhary Resident of Village- Belhari,
Police Station- Belaganj, District- Gaya.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No-2

For the Opposite Party/s : Mr. Madhuranand Jha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 17-01-2019 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 341,323,354A,448,504 and 506/34 of the IPC and Section 8 of POCSO Act.

The prosecution case as per the written report of Jai Prakash Saw submitted to the SHO, Belaganj Police Station is to the effect that on 8.7.2018 at 12.30 A.M. the informant and his family members were sleeping when at 1 A.M. the petitioner being his neighbour crossed over the roof of the informant and started teasing the ten-year-old sister of the informant. On protest, he tore the clothes of the informant's sister. It is further alleged that on alarm being raised, the villagers came on spot and the family members of the petitioner assaulted the



informant's family members.

It is submitted by learned counsel for the petitioner that for the occurrence of 8.7.2018 at 1 A.M., the FIR was registered on 9.7.2018 at 6 P.M. but it reached to the Court of the learned Special Judge, POCSO Act on 17.7.2018 which suggests the antedating of the FIR. During medical examination, the victim was found aged about 19 years, hence no case under Section 8 of the POCSO Act is made out. It is further submitted that the other offence alleged is under Section 354A of IPC, which is bailable. Moreover, during entire investigation the torn clothes of the informant's sister has not been seized by the investigating agency.

Learned APP and learned counsel for the informant submit that though the doctor found the victim aged about 19 years but there is specific accusation against the petitioner that he tried to outrage the modesty of the informant's sister.

Considering the delayed transmission of the FIR to the Court of learned Special Judge, POCSO Act, during investigation the case was not being found true under Section 8 of the POCSO Act and in view of the medical opinion also, prima facie, no case under Section 8 of POCSO is made out, let the petitioner above named be released on anticipatory bail in the



event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge I, Gaya in connection with Belaganj P.S. Case No.195 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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