

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84030 of 2019

Arising Out of PS. Case No.-278 Year-2018 Thana- BAIRIYA District- West Champaran

=====

ARUN PASWAN Son of Sri Umashankar Paswan Resident of Village -
Motipur, P.S.- Bairia, Distt - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma

For the Opposite Party/s : Mr.Shantanu Kumar

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-12-2019 Heard learned counsels for the parties.

The petitioner is languishing in custody since 28.8.2019 in a case registered for the offences punishable under Sections 363,366A and 379 of the I.P.C., 1860 and Section 4 of the POCSO Act, 2012.

The prosecution case is of kidnapping the minor daughter of the informant on 25.7.2018 and they also took away rupees ten thousand rupees and jewellery which was carried by the victim.

It is submitted by learned counsel for the petitioner that the very accusation suggests that the victim left the house on her own, though in the statement recorded under Section 164 Cr.P.C., she has got her age recorded as 14 years whereas the medical report suggests her age between 15-17 years. Keeping



in view the well settled law of giving privilege of two years to either side, the case does not come within the purview of the provisions of The Protection of Children from Sexual Offences Act, 2012. In the statement under Section 164 Cr.P.C., the victim has stated that she was being taken by Manju Devi and the mother of the petitioner, namely Geeta Devi for easing out and from there, the petitioner and co-accused Rupesh enticed her forcefully and after three days, she was being released. The victim girl has not alleged any misbehaviour and physical assault against any of the accused persons. The medical report does not suggest any physical assault or sexual assault upon the victim girl. It is further submitted that for the alleged occurrence of 25.7.2018, the FIR was lodged on 27.7.2018 after return of the victim girl. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the accusation is specific against the petitioner.

Considering the delayed lodging of the case, statement of the victim recorded under Section 164 of the Cr.P.C., the fact that medical report does not suggest that the victim girl was being assaulted either physically or sexually,



statement being made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent and the period in custody, let the petitioner above named 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 the learned Additional Sessions Judge-cum-Special Judge, POCSO Act, West Champaran, Bettiah in connection with Bairiya P.S. Case No. 278 of 2018.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

