

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71438 of 2018**

Arising Out of PS. Case No.-104 Year-2018 Thana- MAHILA P.S District-
Supaul *

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Subhash Kumar Son of Sri Mahendra Sardar, Resident of Village-Narhaiya,
P.S.-Chhatapur, Distict-Supaul.

... .. Petitioner

Versus

1. The State Of Bihar
2. Nitu Kumari, D/o Kapleshwar Sardar, resident of Narhaiya, P.S.
Chhatapur, District- Supaul.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mrs.Veena Kumari Jaiswal, Advocate.
For the O.P. No. 2 : Mr. Ranjan Kumar Jha, Advocate.
For the State : APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 01-03-2019 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, 493/34 of the Indian Penal Code and
Section 4 of POCSO Act registered in connection with Supaul
Mahila P.S. Case No. 104 of 2018 and POCSO Case No. 37 of 2018.

3. At the very outset, learned counsel for the petitioner
states on instruction that the petitioner is agreeable to undergo a
DNA test to ascertain whether he is the father of the child of the
victim girl.

4. Learned APP assisted by learned counsel for the
informant has no objection to the prayer of the petitioner.



5. Be that as it may, 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 provisional bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned A.D.J 1st Cum Special Judge (POCSO), Supaul in connection with Supaul Mahila P.S. Case No. 104 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) That 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) That 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.

(v) The requisite DNA test shall be carried out within a



period of two weeks from today, and for which the parties would extend all cooperation.

6. The provisional bail shall be confirmed if the DNA test report does not show the petitioner to be the biological father of the victim’s child, or in the event that the complainant does not cooperate for the DNA test. However, in case the petitioner does not cooperate for the DNA test to be conducted within the stipulated period or if the DNA test report concludes that the petitioner is the biological father of the victim’s child, the provisional bail shall stand cancelled.

(Vikash Jain, J)

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