

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.80493 of 2018

Arising Out of PS. Case No.-87 Year-2017 Thana- BARHARA KOTHI District- Purnia

Md. Mumtaj @ Mumtaj S/o Md. Jumrati R/v-Kusthan Bihariganj, Shastri
Chowk, P.S-Bihariganj, Distt.-Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate .
For the Opposite Party/s : Mr. Shantanu Kumar, APP.

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 23-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in Barhara (Raghubansh
Nagar) P.S. Case No. 87 of 2017 registered under Sections 363,
366A and 376 of the Indian Penal Code and Section 4 of
POCSO Act.

Daughter and niece of the informant is said to
have been kidnapped by the driver of the pick up van namely
Mumtaj along with one another accused and subsequently
dropping his niece on the way his daughter was taken away by
the said accused.

It is submitted by learned counsel for the
petitioner that it is a case of love affair and victim has suo motu
eloped with the petitioner. She has not even made any



alarm of her kidnapping at the fruit shop where her cousin was dropped by the petitioner and in her statement recorded under Section 164 Cr.P.C. she has also not named the petitioner in the occurrence. No sign of sexual assault and spermatozoa in the vaginal swab of the victim was found in her medical examination. It is further submitted that charge in the case has been framed and uptill now no prosecution witness has been examined. Petitioner has been languishing in custody since 26.04.2017.

Per contra, learned APP for the State opposing the bail petition submitted that the mother of the victim has stated that her niece and daughter were kidnapped by the petitioner on the tempo. Her niece was dropped on the way but her daughter was taken away who was recovered from the house of the petitioner. Though the victim has not named the petitioner in her statement recorded under Section 164 Cr.P.C. but she has stated about committing sexual assault against her by her kidnapper. Victim is minor and after examining the victim doctor has reported that possibility of rape cannot be ruled out. Hence the petitioner does not deserve bail.

From perusal of the letter of the learned lower court, it appears that despite issuance of summon and bailable



warrant against the witnesses, no prosecution witness has been produced by the prosecution as yet and the case is pending for prosecution evidence.

In the facts and circumstances of the case, I am not inclined to enlarge the petitioner on bail. Prayer for bail of the petitioner is rejected.

However, learned Trial Court is directed to conclude the trial as expeditiously as possible preferably within six months from the date of receipt/production of a copy of this order fixing the case on day to day basis and S.P., Purnea is directed to ensure production of the witnesses in the case on each and every date fixed in the case without fail.

Let a copy of this order be communicated to the S.P., Purnea by fax for needful.

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(Prakash Chandra Jaiswal, J)

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