

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3642 of 2020

Arising Out of PS. Case No.-22 Year-2019 Thana- MAHILA P.S District- Supaul

=====

CHHOTU KUMAR @ CHHOTU SAH S/o Late Khattar Sah R/o village-
Fulwariya, Ward No. 12, P.S.- Kishanpur, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Pawan Kumar

For the Opposite Party/s : Mr.Arun Kumar Pandey

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 28-05-2020 Heard.

The matter has been taken up through virtual Court proceeding.

The petitioner is languishing in jail since 21.10.2019 in a case registered for the offences punishable under Sections 376,341,323,504,506 and 509/34 of the IPC and Sections 4 and 6 of the POCSO Act.

The prosecution case, as per the written report of Rajendra Sah submitted to the S.H.O., Supaul Mahila Police



Station is to the effect that the informant's niece Rina was married with Ravindra Sah five years prior to the lodging of the case. Ravindra Sah's younger brother, namely, Chhotu (petitioner), used to come to the village. It is alleged that six-seven months prior to the lodging of the case, the informant and others went to take bath in the river, in the meantime, the petitioner ravished the daughter of the informant. Thereafter, a proposal of marriage was made but he refused to do so and made assault on the informant.

It is submitted by learned counsel for the petitioner that the FIR has been lodged after seven months of the alleged occurrence and the age of the victim has been assessed between 17 to 19 years, hence, no case under the provisions of POCSO Act is made out against the petitioner. It is further submitted that the medical report does not suggest any sign of rape or any injury being caused to the daughter of the informant. The investigation has already been concluded. 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. However, the FIR has been lodged after seven months.



Considering the fact that the accusation is not being corroborated by the medical opinion, the investigation has already been concluded and delayed lodging of the case coupled with the period in custody, let the petitioner above named be released on bail, for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ADJ-I, Supaul in connection with Supaul Mahila P.S. Case No. 22 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ADJ-I, Supaul in connection with Supaul Mahila P.S. Case No. 22 of 2019 including one surety given at the time of provisional bail.



The learned Court below will be at liberty to further extend the period of provisional bail if the lock down, due to the present pandemic Covid-19, is not over in next three months.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

