

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 8381 of 2020

Arising Out of PS Case No.-214 Year-2019 Thana- BARACHATTI District- Gaya

Yogesh Kumar @ Jugesh Kumar, aged about 26 years, Male, Son of Kapil Das, Resident of Village - Guriyawan Tola Sarsovavad, P.S.- Mohanpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vinod Kumar, Advocate
For the State	:	Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Vinod Kumar, learned counsel for the petitioner and Mr. Akshay Lal Pandit, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Barachatti (Mohanpur) PS Case No. 214 of 2019 dated 26.05.2019 instituted under Section 376 of the Indian Penal Code.

4. The allegation against the petitioner in the FIR is of attempting to commit rape on the informant and outraging her modesty.

5. Learned counsel for the petitioner submitted that the allegation is false and fabricated. It was submitted that the



petitioner is the actual victim of the act of the informant, inasmuch as, a few days prior to the FIR, she was caught plucking vegetables from the field of the petitioner and complaint was made to the *Panchayat* but the informant did not turn up and as a counter blast has lodged this patently false case. Learned counsel submitted that in the FIR, the allegation is that the petitioner had tried to outrage her modesty whereas in the statement under Section 164 of the Code of Criminal Procedure, 1973, she has stated that on 23.04.2019 also, the petitioner had tried to commit rape and prior to that he had committed rape and had threatened not to tell this to anybody. Learned counsel submitted that there is discrepancy in the version and further that there is no explanation as to why the previous rape, if committed, was not reported to any authority. Learned counsel submitted that the medical report has not given any categorical finding with regard to rape. It was submitted that the petitioner having no criminal antecedent is in custody since 31.10.2019.

6. Learned APP, from the case diary, submitted that the husband and sister-in-law of the informant have supported the prosecution story. However, with regard to the story being developed in the statement of the informant before the Court and also there being no explanation as to why the alleged rape



committed two months back was not reported before any authority, learned counsel submitted that there was no explanation for the same.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM, Sherghati, Gaya in Barachatti (Mohanpur) PS Case No. 214 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P.Kumar/Anand Kr.

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