

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7236 of 2020

Arising Out of PS. Case No.-427 Year-2019 Thana- PARSABAZAR District- Patna

Deeraj Kumar @ Dheeraj Kumar, S/o Santosh Ram, Resident of Village-
Abdullah Chak, P.S.- Parsa Bazar, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Neerad Parashar, Advocate
For the Opposite Party/s : Mr.Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 18-09-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Parsa Bazar P.S. Case No.427 of 2019 registered for the offence punishable under Sections 376(D)/506 and 34 of the Indian Penal Code and Sections 4 and 7 of the POCSO Act.

The prosecution story, as per the F.I.R, is that when



the daughter of the informant had gone to the field to ease herself, she was taken away forcibly by three persons, namely, Diwali Kumar, Dheeraj Kumar, son of Ram Nagina Ram and Dheeraj Kumar, son of Santosh Ram. The other allegation is that thereafter they subjected her to wrongful act.

It is submitted by the petitioner's counsel that the FIR does not specify the wrongful act committed which has later been elaborated by the statement of the victim recorded under Section 164 Cr.P.C., alleging rape by Dheeraj and Diwali. It is submitted that the statement under Section 164 Cr.P.C. does not specify as to which Dheeraj has committed rape. It is further submitted that the entire story stated in the F.I.R. has been changed in the statement under Section 164 Cr.P.C. which has been recorded just four days after the alleged occurrence. The case is of false implication as is evident from the case diary wherein in the medical report, no mark of violence has been found on her private parts. It is further submitted that the petitioner's implication is on extraneous considerations.

Learned APP for the State has opposed the prayer for pre-arrest bail. He submits that the allegation is of committing rape on the minor and even the Doctors at the P.M.C.H. have opined her age to be between 16 to 18 years.



Considering the rival submissions, this Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, 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 court of Special Judge, POCSO-cum-A.D.J.-1st, Patna, in connection with Parsa Bazar P.S. Case No.427 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

