

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7330 of 2020

Arising Out of PS. Case No.-166 Year-2017 Thana- CHOUTARWA District- West
Champaran

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VIJAY YADAV S/o Rudal Yadav R/o village- Gayghatwa, P.S.- Bathwaria,
District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Milind Kumar Mishra, Adv.
For the Opposite Party/s : Mr.Ram Sumiran Rai, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 28-05-2020 Heard learned counsel for the petitioner and learned A.P.P
for the State, through video conferencing.

The petitioner has filed the instant application for grant of
regular bail in connection with Choutarawa (Bathwariya) P.S.
Case no. 166 of 2017 registered for offence under sections 376,
341, 323, 511 and 506 of the Indian Penal Code and section 8 of
the POCSO Act.

As per allegation in the F.I.R., the petitioner is stated to
have committed rape on the 10 years old daughter of the
informant and on the informant's daughter raising hulla, she was
beaten up, injured and left after giving threats.

It is submitted by learned counsel for the petitioner that
the allegations as leveled in the F.I.R. are false and concocted.



There is no explanation for the seven days delay in lodging of the F.I.R. which was registered on 20.9.2017 for an occurrence said to have taken place on 13.9.2017. It is submitted that the petitioner was enlarged on police bail on 29.11.2017. Subsequently charge sheet (Annexure-2) was submitted under sections 341, 323, 354 and 506 of the Indian Penal Code which would be evident from the last page of the certified copy of the charge sheet, error having been committed on the first page of the charge sheet. It is further submitted that differing with the charge sheet, by order dated 7.5.2018 (Annexure-3) the learned Court below was pleased to take cognizance also under section 376 of the Indian Penal Code and section 8 of the POCSO Act. It is submitted that the petitioner has no criminal antecedent and is in custody since 28.11.2019. It is finally submitted that as the petitioner had been enlarged on police bail and there is no allegation against the petitioner of having misused the privilege of police bail, he be enlarged on bail.

The application for bail is opposed by learned A.P.P. for the State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the fact that initially the charge sheet was submitted



under section 354 and other sections of the Indian Penal Code, the petitioner had been enlarged on police bail and there is no allegation against him of its misuse and the petitioner is in custody since 28.11.2019, the Court is inclined to enlarge the petitioner on bail. The petitioner is directed to be enlarged on bail in connection with Choutarawa (Bathwariya) P.S. Case no. 166 of 2017 on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I cum Special Judge, SC/ST POCSO, West Champaran, Betiah.

(Partha Sarthy, J)

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