

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20681 of 2020**

Arising Out of PS. Case No.-73 Year-2019 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Rishi Kumar S/o Sudama Singh @ Kundan Singh Resident of Village-
Akhlaspur, P.S.- Bhabua, Distt- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh

For the Opposite Party/s : Mr.Amitesh Kumar

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

3 15-09-2020 The matter has been taken up through virtual

Court proceeding.

Since the court proceeding is non-functional in
physical mode due to the present pandemic COVID-19,
the matter is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of the resumption
of the physical Court proceedings.

In case of non-removal of the defects within
undertaken period, the office shall place the matter
before the bench.

Heard learned counsel for the petitioner and



learned counsel for the State.

The petitioner is languishing in custody since 21.10.2019 in a case registered for the offence punishable under Sections 341, 323, 354(D), 366(A), 376(D), 511, 34 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children From Sexual Offences Act, 2012.

The prosecution case as per the fardbeyan of Jyoti Kumari, recorded by A.S.I Seeta Kumari, Mahila Police Station, Bhabhua on 11.10.2019 at 11:00 A.M. in the emergency ward of Sadar Hospital, Bhabhua is to the effect that on 10.10.2019 at 9:00 P.M. when the informant went to ease out along with her sister-in-law, in the meantime, three persons came at Apache motorcycle and they forcibly took her away and one person tried to ravish her but the informant got herself released and started running. The accused persons chased her and again tried to outrage her modesty but she again got herself released herself but thereafter the



accused persons pushed her in a ditch, as a result, she received injuries. Thereafter, the informant took a lift from a motorcycle rider and went to hospital, leading to registration of the present F.I.R against three unknown persons.

In 164 Cr.P.C statement, the informant has also not named any person and she has stated that one month prior to the alleged occurrence, one Ajit Patel persuaded her to accompany him but she has not named the petitioner. The name of the petitioner sprang up during T.I. parade when she stated that petitioner is the person who made a telephonic call and asked her to come near a temple. During investigation, the victim admitted that she was in love with co-accused Raksha Kumar. Co-accused Raksha Kumar in his confessional statement has stated that he established physical relationship with the victim.

Learned counsel for the petitioner submits that there is inconsistency in the statement of co-accused



Raksha Kumar and the thrust of accusation is against co-accused Raksha Kumar, with whom the informant was having love affairs. It is further submitted that co-accused Raksha Kumar has been granted bail vide order dated 06.03.2020 passed in Cr. Misc. No. 82544 of 2019 by a co-ordinate bench of this Court.

Learned A.P.P. submits that petitioner's name sprang up as a person who made a telephonic call to the victim.

Considering the inconsistency between the F.I.R and the statements of the victim made during investigation, the fact that main accused Raksha Kumar has been granted bail by co-ordinate bench of this Court, the investigation has already been concluded, coupled with the fact that petitioner is not having any criminal antecedent, 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 learned Additional Sessions Judge-I-cum-Special



Judge, Kaimur at Bhabua in connection with POCSO
Reg. No. 46 of 2019, arising out of Mahila (Bhabua)
P.S. Case No. 73 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. 10,000/-(ten
thousands) with two sureties of the like amount each to
the satisfaction of learned Additional Sessions Judge-I-
cum-Special Judge, Kaimur at Bhabua in connection with
POCSO Reg. No. 46 of 2019, arising out of Mahila
(Bhabua) P.S. Case No. 73 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 Court proceeding in physical mode will not resume in next three months.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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