

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17170 of 2020

Arising Out of PS. Case No.-66 Year-2019 Thana- DHARHARA District- Munger

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KUNDAN MANDAL @ KUNDAN KUMAR Son of Kamli Mandal Resident
of Village - Adampur (Sarobagh), P.S.- Dharahara, District- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Suman Kumar Mishra, Advocate.

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

4 28-09-2020 This matter has been taken up through Video Conferencing.

Heard the parties.

The petitioner is languishing in custody for the offence punishable under Section 366(A) of the Indian Penal Code.

Petitioner is in custody since 23.08.2019.

Allegation is of kidnapping of a minor girl. The victim girl in her statement under Section 164 Cr.P.C. stated that whenever she was in the field side to attend the call of nature,



the petitioner on the point of pistol used to threaten her. The petitioner forcefully took her to Delhi. At Delhi, the petitioner was pressurizing her to take drink and on her refusal he used to assault her. The victim has disclosed her age as 13 years. The learned Magistrate who assessed her age has also recorded 13 years. Petitioner has got criminal antecedent of different nature including murder and dacoity cases.

Learned counsel for the petitioner submits that the petitioner is in custody since 23.08.2019. Investigation of the case is already complete. There is no material to suggest that the petitioner had ever sexually harassed the victim girl or sexually abused her rather the victim had voluntarily accompanied with the petitioner. Learned counsel for the petitioner further submits that the doctor has assessed the age of the victim as 18 to 18 ½ years.

Father of the victim as well as victim have stated that the victim was aged about 13 years. Hence opinion of the doctor cannot prevail on the personal knowledge of the competent witness. Nothing has been produced to substantiate the consent of the victim though her consent was also immaterial in view of the fact that she was a minor.

Hence, I am not inclined to enlarge the petitioner on



bail in connection with Dharhara P.S. Case No. 66 of 2019.

Prayer for bail of the petitioner is refused.

Learned trial Judge is directed to expedite the trial of
the aforesaid case.

(Birendra Kumar, J)

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