

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 15681 of 2020

Arising Out of PS Case No.-143 Year-2018 Thana- NARHAT District- Nawada

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Sharwan Yadav @ Pawan Kumar, aged about 35 years (Male), Son of Late
Narayan Yadav, Resident of Village- Tarpur, P.S.- Narhat, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sheo Kumar Prasad, Advocate
For the State	:	Mr. Pranav Kumar, Advocate
For the Informant	:	Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 15-07-2020

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

2. Heard Mr. Sheo Kumar Prasad, learned counsel for the petitioner; Mr. Pranav Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Ravindra Kumar, learned counsel for the informant.

3. The petitioner is in custody in connection with Narhat PS Case No. 143 of 2018 dated 12.06.2018, instituted under



Sections 341, 323, 354B, 504/34 of the Indian Penal Code and 8 of The Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioner and another is of trying to outrage the modesty of the nieces of the informant and thereafter, when the informant went to their house, they along with two others are said to have abused and assaulted them.

5. Learned counsel for the petitioner submitted that the parties are next door neighbours and the allegation is totally false and concocted. It was submitted that as per the FIR, only an attempt was made, but in the statement recorded by the two girls before the Court under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code'), they have stated that the petitioner and another co-accused had also committed rape. Learned counsel submitted that the falsity of the allegation would be clear from the fact that the girls refused to undergo medical examination which has been noted by the Court while recording statement under Section 164 of the Code. Learned counsel submitted that co-accused Sanjay Yadav, against whom also there is similar allegation, has been granted bail and the petitioner is in custody since 22.01.2020. It was further submitted that there is land dispute and pending litigation between the parties.



6. Learned APP, from the case diary, submitted that the petitioner has criminal antecedent. It was submitted that the informant and the victims were eye witness to the incident. It was further submitted that during investigation, it has not come that there was any land dispute between the parties or any litigation pending.

7. Learned counsel for the informant submitted that against the petitioner, there are six antecedents whereas against Sanjay Yadav, there is only three antecedents and further that there is absolutely no land dispute between the parties and the petitioner is a habitual offender and intimidates other co-villagers, including those belonging to the weaker sections and due to fear and threat, most of them do not lodge any case. It was further submitted that after the present case, again the petitioner and others had assaulted the informant pressuring him to withdraw the present case for which also a substantive criminal case has been instituted against them. It was pointed out that despite the incident being of 12.06.2018, where the petitioner was one of the main accused, he was arrested only on 22.01.2020 i.e., after more than one and a half years, which clearly indicates that he had evaded the process of law for a long period.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail, for the present.

9. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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