

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20696 of 2020

Arising Out of PS. Case No.-245 Year-2019 Thana- AIRPORT District- Patna

ANAND KUMAR Son of Ram Lakhan Prasad @ Ram Lakhan Ravidas @
Ram Lakhan Mochi Resident of Nehachak, P.S.- Gaurichak, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar

For the Opposite Party/s : Mr. Anil Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 08-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody since
06.11.2019, in a case initially registered for the offences
punishable under Sections 363, 365 and 366A/34 of the IPC,



Sections 4, 6, 8 and 10 of the POCSO Act, but subsequently Sections 376, 506 and 120B of the IPC were also added.

The prosecution case, as per the written report of Ram Nath Singh, submitted to the S.H.O., Hawaii Adda Police Station is to the effect that on 12.09.2019, the informant's daughter went to the school, but she did not return when on enquiry from the school, it was found that on the alleged date of occurrence, the victim did not go to the school. Subsequently, the informant came to know that his daughter used to talk with one Abhishek. It is further alleged that earlier also, the daughter of the informant had gone missing while going to the school when co-accused Abishek and Prince came and conveyed the informant that he will bring the victim girl on condition that the informant will not assault her. Subsequently, they produced the victim and when the informant was taking his daughter, in the meantime, four accused persons including the petitioner came on a vehicle and asked about the informant and subsequently they went away from there. On 30.08.2019 also, the daughter of the informant went missing subsequently, co-accused Dipak, the student of the same school, brought the victim by a motorcycle.

Learned counsel for the petitioner submits that from the narration of the accusation, it appears that the daughter



of the informant is in habit of leaving the school and wandering with some other persons. At earlier point of time also, Hawai Adda P.S. Case No. 24 of 2020 was registered by the informant on 18.01.2020 under Sections 363, 365 and 366A of the IPC and Section 8 of the Protection of Children from Sexual Offences Act in which the petitioner was not named. The victim in her statement recorded under Section 164 Cr. P.C, though has named the petitioner but has not alleged anything specific against the petitioner. It is further submitted that neither the statement of the victim recorded under Section 164 Cr. P.C., nor the medical examination report reflect that the victim was being subjected to any forceful physical relationship or assault. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in one other case in which he is on bail. Moreover, the investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the petitioner is named in the FIR with specific accusation.

Considering the fact that from the statement of the victim girl and medical report, it does not appear that any force



was applied for compelling the victim to go in the company of the petitioner or with any other person, the medical report does not suggest any injury or any sign of rape, the investigation has already been concluded and the trial is not likely to be concluded due to the pandemic, Covid-19, 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 the learned Additional Sessions Judge-I, Patna, in connection with Hawai Adda P.S. Case No. 245 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 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.10000/- (ten thousand) with two sureties including one surety given at the time of provisional



bail of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Patna, in connection with Hawaii Adda P.S. Case No. 245 of 2019.

The learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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