

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20011 of 2020

Arising Out of PS. Case No.-203 Year-2019 Thana- SONBERSA District- Saharsa

Praveen Mahto S/o Daso Mahto Resident of Village-Bhasti (Bind Toli), P.S-
Sonbarsa Raj, District-Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 31-08-2020 The Court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and learned
APP for the State.

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

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is languishing in custody since
10.12.2019 in a case registered for the offences punishable



under Sections 363 and 366A/34 of the Indian Penal Code. Subsequently, on conclusion of the investigation the charge sheet was submitted under Sections 363, 366A, 376/34 of the Indian Penal Code and Sections 8 & 12 of the Protection of Children from Sexual Offences Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the written report of Jayant Kumar Dubey submitted to Station House Officer, Kashnagar O.P., is to the effect that on 07.12.2019 at 3.00 A.M., the daughter of the informant, name changed 'X' came out from her house when co-accused Munna Mahto, Kishore Mahto, Chaniya Devi, Pathal Mahto, Arjun Mahto and the petitioner, Praveen Mahto kidnapped her. Thereafter, the daughter of the informant was taken away by co-accused Munna Mahto and the petitioner, Praveen Mahto on a motorcycle took the daughter of the informant Sonbarsa Raj and from there, co-accused Munna Mahto took the victim to unknown destination whereas petitioner, Praveen Mahto returned. The informant has suspected that for the purposes of marriage his daughter has been kidnapped.

It is submitted by learned counsel for the petitioner that it is simply a case of love affairs between co-accused



Munna Mahto and the daughter of the informant. The medical report suggests no external or internal injury, no spermatozoa or any sign of rape has been found on the body of the victim and the age of the victim has been assessed between 17 to 19 years which suggests that no case under POCSO Act is made out. The specific case of the informant is that the victim went traceless in the early morning of 07.12.2019 when the FIR was registered on 09.12.2019 but there is no explanation for such a delay. It is further submitted that the victim was medically examined on 06.01.2020 when she returned on her own on 05.01.2020 and subsequently, her statement under Section 164 Cr.P.C. was recorded on 08.01.2020. The victim has named the petitioner and others for taking her and she has further stated that the physical relationship was established by co-accused Munna Mahto, who also performed marriage with victim. The investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner is named in the FIR and 164 Cr.P.C. statement also.

Considering the fact that the thrust of accusation is against co-accused Munna Mahto, the medical report of the



victim does not corroborate with the accusation and the victim has been found a major during medical examination, moreover, the investigation has already been concluded, coupled with the statement made in paragraph no.3 of the petition that the 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 the learned 1st Additional Sessions Judge -cum- Special Judge, POCSO, Saharsa in connection with Special (POCSO) 04 of 2020, arising out of Sonbarsa Raj P.S. Case No. 203 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 upon 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 thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned 1st



Additional Sessions Judge -cum- Special Judge, POCSO,
Saharsa in connection with Special (POCSO) 04 of 2020,
arising out of Sonbarsa Raj P.S. Case No. 203 of 2019.

The learned Court below is 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 application stands disposed of.

(Dinesh Kumar Singh, J)

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