

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22355 of 2020

Arising Out of PS. Case No.-8 Year-2020 Thana- DARIHAT District- Rohtas

Bitu Kumar @ Bittu Kumar, S/o Nageshwar Sah Resident of Village-Chilbila,
P.S.-Darihat, District-Rohtas at Sasaram.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Uday Kumar, Advocate
For the Opposite Party/s :	Mr. Ram Priya Sharan Singh, APP
For the Informant :	Mr. Rajnikant Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 20-10-2020 Heard Mr. Uday Kumar, learned Advocate for the petitioner and Mr. Rajni Kant Singh, learned Advocate for the informant. The State is represented by Mr. Ram Priya Sharan Singh, learned APP.

The petitioner seeks bail in anticipation of his arrest in connection with Darihat P.S. Case No. 08 of 2020 dated 26.01.2020 instituted for the offences under Sections 366(A) and 34 of the Indian Penal Code.

By order dated 25.08.2020, case diary was called for and the petitioner was granted provisional bail.

Learned counsel for the petitioner has submitted that the victim is the niece of the informant and the allegation against the petitioner has been raised because there was some suspicion in the mind of the informant that because the victim had been on talking



terms with the petitioner, therefore, he surely would have enticed away her for the purposes of marriage. The victim in her 164 statement before the police has clearly stated that a false case has been instituted against the petitioner by her uncle. In fact she had gone to her friend's house and taking advantage of her absence from the home, her uncle has lodged this false case.

As opposed to the aforesaid contention, Mr. Rajnikant Singh, learned counsel for the informant has stated that the victim made that statement while she was in the captivity of the police who had been won over by the petitioner. The moment she went to the house of her parents and narrated the entire set of facts, a decision was taken to make a complaint regarding this. A complaint was raised before the Bihar State Women Commission wherein the victim has not given clean chit to the petitioner.

Considering this aspect of the matter, the court below found the conduct of the police not above board and rejected the anticipatory bail of the petitioner.

On perusal of the case diary, it appears that the victim had gone to the police station of her own along with a lady constable. It would be difficult to presume that the victim was under some kind of pressure either by the police or by the petitioner to make such



statement. Rather the converse could be true that the victim, while she was in the association of her family members, made a statement castigating the petitioner.

In any view of the matter, considering the 164 statement of the victim girl in which she has disclosed her age to be 18 years, I am inclined to confirm the provisional bail granted to the petitioner.

Mr. Rajnikant Singh, learned Advocate for the informant, however, has submitted that the age certificate of the victim belies her own statement that she is 18 years of age. Learned counsel for the informant has also drawn the attention of this Court to the fact that at the instance of the Bihar State Women Commission, the victim was subjected to medical examination and from the impugned order, it appears that there was an assessment that the sexual assault on victim cannot be ruled out.

As noted above, considering the entire set of facts and giving primacy to the 164 statement of the victim girl, the provisional bail granted to the petitioner is hereby confirmed. The petitioner shall remain on the same bail bonds.

However, it is directed that the petitioner shall not keep any contact with the victim and in case he tries to cross roads with her or her family members, the



informant would be at liberty to file an application for
cancellation of his bail.

The petition stands disposed of.

(Ashutosh Kumar, J)

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