

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27856 of 2020

Arising Out of PS. Case No.-12 Year-2020 Thana- MAHILA P.S. District- Muzaffarpur

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RAUSHAN PASWAN @ ROSHAN PASWAN @ ROSHAN KUMAR S/o
Mahesh Paswan Resident of Mohalla-Pankha Toli, Police Station-Kazi
Mohamdpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajan

For the Opposite Party/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 15-12-2020 The learned counsel for the parties were heard at length yesterday and today, the instant case has been listed under the heading for orders.

The petitioner seeks regular bail in connection with Muzaffarpur Mahila P.S. Case No. 12 of 2020 (corresponding to G.R. No. 27 of 2020), registered for the offence punishable under Sections 354, 354(A), 354(C), 341, 323 read with Section 34 of the Indian Penal Code, Section 8 /12 of the POCSO Act, Sections 3(i), (r), (w), (i), (j) of the SC/ST Act and subsequently, Sections 363, 511, 120(B), 354(B), 354(D), 342 of the Indian Penal Code was added.

The case of the prosecution according to the



informant is that on 25.03.2020 at about 8:00 pm., she had left her house for buying milk and when she was on the way to Kalambagh chowk at about 8:10 pm., the petitioner herein and the co-accused person, namely, Subham Kumar, had arrived there on a car, whereafter the petitioner is alleged to have put a handkerchief on the mouth of the informant resulting in her becoming unconscious whereupon the informant was taken towards Ramdayalu Railway Station. It is further alleged that subsequently, the informant was dropped near Mahindra Service Centre. It is also alleged that the petitioner used to follow the informant while she used to go to her school.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 26.03.2020. The learned counsel for the petitioner has further submitted that the police, after investigation, has filed final form dated 22.05.2020 as against the petitioner herein



and one another co-accused person, namely, Suman Kumar, while filing a charge-sheet against the co-accused persons, namely, Dilip Kumar, Satyam Kumar and Prabhat Kumar. It is thus submitted that as far as the petitioner is concerned, the police has found him innocent, however, subsequently, the learned court below has differed from the final form submitted by the police and has taken cognizance as against the petitioner herein for the offences alleged. The learned counsel for the petitioner has also submitted, by referring to the injury report of the prosecutrix / informant, that neither any injury mark nor any bleeding has been found on her body and moreover, no spermatozoa was found in the vaginal swab. It is also submitted that the informant in her fardbeyan has not made any allegation of any sort of misdeed / rape having been committed by the petitioner herein.

Per contra, the learned APP has vehemently opposed the prayer for bail.

Having considered the submissions advanced



by the learned counsel for the parties, taking into account the materials on record and considering the materials available in the case diary, this Court finds that minuscule evidence is available in the case diary as against the petitioner herein so as to prima facie establish the complicity of the petitioner in the alleged crime, apart from the fact that the police has found the case, upon investigation, to be false as against the petitioner herein and moreover, the informant has not alleged any sort of misdeed or rape having been committed by the petitioner herein, hence, I find that benefit of doubt can be given to the petitioner herein, as far as consideration of the present bail petition is concerned, especially in view of the fact that the petitioner is having a clean antecedent and he is languishing in custody since 26.03.2020, thus, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with



two sureties of the like amount each to the satisfaction of learned Special Judge POCSO Act (A.D.J.1st, Muzaffarpur) in connection with Muzaffarpur Mahila P.S. Case No. 12 of 2020 (corresponding to G.R.No. 27 of 2020).

(Mohit Kumar Shah, J)

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