

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31803 of 2020**

Arising Out of PS. Case No.-29 Year-2020 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Vinay Kumar Singh age about 25 years, Male, S/o Shiv Shankar Singh R/o
Village- Pachlakhi, P.S.- Durgawati, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan, Advocate
For the State	:	Mr. Ashok Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 09-12-2020

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

2. Heard Mr. Tribhuwan Narayan, learned counsel for the petitioner and Mr. Ashok Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody since 05.06.2020 in connection with POCSO Case No. 20 of 2020 arising out of Mahila PS Case No. 29 of 2020 dated 05.06.2020, instituted under Sections 342/363/376/120(B)/506 of the Indian Penal Code; Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 66(E)/67(A)(B) of the Information and Technology Act, 2000.



4. The allegation against the petitioner, though not named in the FIR, is that he had committed rape on the informant in a hotel in Mohania.

5. Learned counsel for the petitioner submitted that he is an army man and has been falsely implicated in this case. It was submitted that in the FIR which was instituted on 05.06.2020, the allegation is that on 20.11.2019, i.e., six months prior to lodging of the FIR, named accused, Sandeep Maurya, had taken the informant to Chandauli in U.P. and another accused, Kalam Ali, had committed rape on her and also made video which he made viral on 30.05.2020. Learned counsel submitted that there is not even whisper with regard to the petitioner. However, learned counsel submitted that in the statement recorded by the Court under Section 164 of the Code of Criminal Procedure, 1973, on 06.06.2020 i.e., the very next day, she has made out a completely new story that eight months before the petitioner had also committed rape on her at a hotel in Mohania. Learned counsel submitted that the allegation is palpably false. Learned counsel submitted that it was a separate incident and is alleged to have occurred 8 months prior to the lodging of the FIR in which the petitioner is not even named, and, thus, introducing his name in the statement before the Court is totally malicious



and motivated with ulterior motives. Learned counsel submitted that the reason is that there was marriage negotiation of the petitioner with the victim, but when he came to know of the background, he had refused and to take revenge, the petitioner has also been named by the informant. Learned counsel further drew the attention of the Court to the statement recorded before the Court of witnesses on behalf of the informant namely Sonu Kumar, who has stated only about the other two named accused as also Vipin Kumar Maurya who have not stated anything about the petitioner, much less, the petitioner having committed the offence alleged. Learned counsel further drew the attention of the Court to the examination by a Medical Board of the informant on 06.06.2020 in which her age has been assessed to be between 19 to 21 years. Learned counsel submitted that the petitioner also does not have any other criminal antecedent and is in custody for no fault of his since 05.06.2020.

6. Learned APP submitted that the girl has taken the name of the petitioner also in her statement before the Court. However, he could not controvert that such incident has not even been mentioned in the FIR and even the other two witnesses who have been examined by the Court have not mentioned about such incident much less any role of the



petitioner and also that the Medical Board has opined her age to be between 19 to 21 years.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the Additional District and Session Judge-1st-cum-Special Judge, Kaimur at Bhabhua in POCSO Case No. 20 of 2020 arising out of Mahila PS Case No. 29 of 2020, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall cooperate in the case with the Court and prosecution/police. Failure to do so shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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