

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59825 of 2019

Arising Out of PS. Case No.-309 Year-2019 Thana- KHAGARIA District- Khagaria

Rakesh Kumar Singh Son of Ramesh Prasad Singh Resident of Village -
Jhakhara, P.S.- Allauli (Bahadurpur), District- Khagaria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Yogesh Kumar, Advocate

For the Opposite Party : Mr.Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 04-03-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks pre-arrest bail in connection
with Khagaria (Chitragupta Nagar) P.S. Case No.309 of 2019
registered under Sections 366A/34 and 376 of the Indian Penal
Code and Sections 3 and 4 of the Protection of Children from
Sexual Offences Act, 2012.

Learned counsel for the petitioner submitted that
the allegations made against the petitioner are false and
fabricated. He contended that it is highly improbable that the
petitioner would have committed a heinous offence of the
alleged nature with the assistance of his wife, sons and daughter.
He further contended that the victim has not supported the
allegation against the petitioner in her statement made under



Section 164 of the Code of Criminal Procedure. She has clearly stated that she had left her house out of her own volition and was residing at Patna. He also contended that though the age of the victim is mentioned as 14 years in the FIR, the Medical Board assessed her age between 17 and 18 years.

Per contra, learned counsel appearing for the State being assisted by the learned counsel for the informant submitted that the statement made under Section 164 of the Code of Criminal Procedure was recorded by the learned Magistrate without explaining to the victim that she is not bound to make a confession and that if she does so, it may be used as evidence against her. The learned Magistrate also failed to record after questioning the victim that he has reason to believe that it is being made voluntarily. He contended that the confessional statement was made by the victim under threat and duress of the accused persons. Subsequently, the victim in her statement under Section 161 of the Code of Criminal Procedure has clearly stated that her statement before the Magistrate was recorded under the threat of the accused persons. She has categorically stated that it was the petitioner who had abducted her and had confined her in a room and ravished her for about three months after administering some injection.



He has further contended that as far as the case against other family members are concerned, there may be some exaggeration, but the same would not absolve the petitioner who is involved in abducting, confining and repeatedly raping the minor daughter of his friend.

Having heard the parties and perused the materials on record, I am not inclined to grant pre-arrest bail to the petitioner. Accordingly, the application for grant of pre-arrest bail is rejected.

(Ashwani Kumar Singh, J)

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