

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77143 of 2019

Arising Out of PS. Case No.-123 Year-2018 Thana- BELA District- Sitamarhi

Afzal @ Md. Afzal, Son of Abdul Sakur, Resident of Village-Bairagiya, P.S-
Jaleswar, District-Mohtari (Nepal)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate
For the Opposite Party : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 23-06-2020 Heard learned counsel for the petitioner and

learned counsel for the State via video conferencing.

By way of the present application, the petitioner has sought for pre-arrest bail in connection with Bela P.S. Case No.123 of 2018 registered for the offences punishable under Sections 341, 323, 504, 506, 376 of the Indian Penal Code and section 4 of the Protection of the Children from Sexual Offences Act.

It is contended by the learned counsel for the petitioner that it would appear that the last date of occurrence is 20.06.2018 whereas the written application for registration of first information report after due deliberation was filed on 30.07.2018 that is more than after a month of occurrence and there is no explanation for the inordinate delay in lodging the



case. It is further contended that during medical examination the age of the victim was found between 18-19 years and, as such, the ingredients of the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act would not be attracted. Lastly, it is contended that co-accused Iftekhar whose case stands on more or less identical allegation has already been granted pre-arrest bail by a bench of this Court vide order dated 18.04.2019 passed in Cr. Misc. No.25017 of 2019.

Per contra, learned counsel appearing for the State vehemently opposed the application for grant of pre-arrest bail to the petitioner. He contended that from perusal of the first information report, it would be evident that the victim was aged 15 years only and it was this petitioner who repeatedly raped her and on 29.06.2018, he also called his maternal uncle Md. Iftekhar and administered some sweet whereafter she became unconscious and thereafter they disrobed and ravished her. They also recorded a video of the occurrence and fled away. He submitted that the victim has supported the allegation in her statement made under Section 164 of the Code of Criminal Procedure.

With due regard to the order dated 18.04.2019 passed in Cr. Misc. No.25017 of 2019 whereby the co-accused



Md. Iftekhar has been granted pre-arrest bail by a bench of this Court, I am unable to hold the same view, looking at the gravity of the offence and the serious nature of allegation made against the petitioner that he not only repeatedly raped the victim on the false pretext of marriage but also invited his maternal uncle and by administering some intoxicant mixed with sweet disrobed and raped her and got recorded the video of the ordeal.

Accordingly, the application for pre-arrest bail is rejected.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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