

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70868 of 2019

Arising Out of PS. Case No.-328 Year-2019 Thana- DHAKA District- East Champaran

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IMTEYAJ S/o Late Abujar @ Abdul Jahar R/o village- Lahsaniya, P.S.-
Patahi, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma

For the Opposite Party/s : Mr.Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 04-06-2020 The matter has been taken up through virtual court
proceeding.

Heard learned counsels for the petitioner and the
State.

The petitioner, who is languishing in custody since
02.09.2018, has preferred the present application for grant of
bail in a case registered for the offences punishable under
Sections 363, 366A and 376 of the IPC and Sections 4 and 6 of
the Protection of Children from Sexual Offences Act.

The prosecution case, as per the written report of
Halima Khatoon, submitted to the S.H.O., Dhaka Police Station
is to the effect that on 31.08.2019 at about 8 A.M., the informant
came to know that her daughter Nursaba Khatoon has been
kidnapped on 29.08.2019 by the petitioner Imtiyaz. It is further



alleged that the petitioner kept the victim for two days in his house and ravished her and he is ready to take her to Mumbai for the purposes of immoral trafficking. In the meantime, on the way, the petitioner was apprehended by the villagers.

It is submitted by learned counsel for the petitioner that the victim, in her statement, recorded under Section 164 Cr. P.C., got her age recorded as 15 years when the Court also assessed her age as 15 years, where she stated that she is married with one Sahid two years ago and she has physical relationship with him several times. Hence rapture of hymen does not suggest commission of offences under Section 376 of the IPC.

Learned counsel for the State submits that the accusation of kidnapping the victim and commission of rape is specific against the petitioner.

Considering the rival submission of the parties, keeping in view the fact that as per the medical examination, statement of the victim, recorded under Section 164 Cr. P.C., and as per the assessment made by the Court, the victim is minor, this Court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner, in connection with Dhaka (Pachpakadi) P.S. Case N. 328 of 2019,



pending in the Court of learned 1st Additional Sessions Judge cum Special Judge, POCSO Act, Motihari, East Champaran is rejected.

Let the trial be expedited.

The petitioner will be at liberty to renew his prayer for bail after examination of the informant during trial.

The application is dismissed.

(Dinesh Kumar Singh, J)

Amrendra/-

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