

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75047 of 2019

Arising Out of PS. Case No.-96 Year-2017 Thana- JALALGARH District- Purnia

Siren Mandal Son of Late Munsu Mandal Resident of Mohalla - Ekamba
Dakshin Tola, P.S.- Jalalgarh, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijendra Kumar Singh

For the Opposite Party/s : Mr. Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsels for the petitioner and State.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Section 376 of the IPC and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.

The petitioner's earlier bail application was rejected by a Co-ordinate bench of this Court vide order dated 05.03.2018, passed in Cr. Misc. no. 8117 of 2018 on the ground that the victim, in her statement, recorded under Section 164 Cr. P.C., has supported the accusation.

The prosecution case, as per the written report of Mahesh Mandal, submitted to the S.H.O., Jalalgarh is to the effect that on 30.07.2017, the daughter of the informant, who



aged about 10 years, went to ease out, in the meantime, the petitioner caught hold of her and ravished her, leading to registration of the FIR.

It is submitted by learned counsel for the petitioner that during medical examination neither any external nor internal injury was found nor was presence of spermatozoa found and there is specific opinion of the doctor that there was no sign of sexual intercourse as the hymen was found intact, hence the medical opinion does not corroborate the accusation. It is further submitted that till 2018, six witnesses have been examined and they have not supported the prosecution case and this fact has not been controverted by learned counsel for the State and the petitioner is an old person aged about 60 years.

Learned counsel for the State, however, submits that earlier prayer for bail of the petitioner was rejected by a co-ordinate bench of this Court and the accusation is specific against the petitioner.

Considering the fact that the accusation is not being corroborated by the medical opinion, during investigation, six witnesses have been examined till 2018 and they have not supported the prosecution case and such contention of learned counsel for the petitioner has not been controverted by learned



counsel for the State, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-I-cum-Special Judge, POCSO Act, Purnea in connection with Jalalgarh P.S. Case No. 96 of 2017, arising out of Special Case No. 65 of 2017.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, POCSO Act, Purnea in connection with Jalalgarh P.S. Case No. 96 of 2017, arising out of Special Case No. 65 of 2017.

The learned Court below will be at liberty to extend the further period of provisional bail if the lockdown is not over



in next three months.

Learned trial court will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

(Dinesh Kumar Singh, J)

Amrendra/-

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