

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79415 of 2019

Arising Out of PS. Case No.-377 Year-2019 Thana- GAYA MUFASIL District- Gaya

VIKASH KUMAR Son of Sri Nanhak Singh, Resident of Village - Kamalpur,
Police Station- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.P.K. Shahi, Sr. Adv.
For the informant	:	Mr. Avinash Singh, Adv.
For the Opposite Party/s	:	Mr.Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 04-06-2020 Heard Mr. P.K. Shahi, learned senior counsel appearing on behalf of the petitioner, Mr. Avinash Singh, learned counsel appearing on behalf of the informant and learned A.P.P. through Video Conferencing.

Petitioner seeks bail in Muffasil P.S. Case No.377 of 2019 (POCSO Case No.81 of 2019) registered under Section 376(D) of the IPC and under Sections 4 and 6 of the POCSO Act.

The victim named three persons, namely, Rahul, Sonu and Bablu and alleged that they all committed rape with her. She narrated the entire story as to how she came out from the house and went along with the accused who one after another committed rape with her.



Mr. P.K. Shahi, learned senior counsel appearing on behalf of the petitioner submits that the victim did not name the petitioner in the F.I.R. The victim made her statement under Section 161 of the Cr.P.C. but she did not disclose the name of the petitioner. On 13.08.2019 the victim also made her statement under Section 164 of the Cr.P.C. but she did not disclose the name of the petitioner but thereafter the Investigating Officer gave twist to investigation and again recorded statement of the victim under Section 161 of the Cr.P.C. in para 90 of the case-diary in which it is disclosed that Sonu came and he disclosed the name of Vikash (petitioner), who was also on the motorcycle but the victim did not make any sort of allegations against the petitioner. It is further submitted that Kavita Singh and Amlesh Kumar Singh have been granted bail vide Cr.Misc.No.71161 of 2019 and Cr.Misc.No.75734 of 2019. The case of the petitioner stands on better footing.

Learned A.P.P. and learned counsel appearing on behalf of the informant submitted that the victim filed a petition before the court below that she did not make any statement before the subsequent Investigating Officer under Section 161 of the Cr.P.C. which is said to have been incorporated in para 90 and 108 of the case-diary. The victim did not name the



petitioner.

It appears that the victim did not either name the petitioner in the F.I.R. or in her statement recorded under Section 161 of the Cr.P.C. The victim did not name the petitioner in her statement under Section 164 of the Cr.P.C. but a subsequent Investigating Officer is said to have recorded the statement of the victim in para 90 of the case-diary although the learned counsel for the informant (victim) denied that the informant made any statement before the subsequent Investigating Officer and alleged that Sonu disclosed the name of the petitioner, who was on the motorcycle. Save and except this fact, there is nothing against the petitioner.

Having considered the facts aforesaid, the petitioner named above is directed to be released on bail on furnishing bail bond of Rs.10,000/-(rupees ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge (POCSO Act), Gaya in connection with POCSO Case No.81 of 2019 arising out of Muffasil P.S. Case No.377 of 2019.

(Prabhat Kumar Jha, J)

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