

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79129 of 2019

Arising Out of PS. Case No.-180 Year-2019 Thana- RAMPUR District- Gaya

CHINTU KUMAR @ MANTU KUMAR Son of Baran Das @ Sanjay Das @
Badan Das Resident of Village - Chakand, P.S.- Chakand, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Opposite Party/s : Mr. Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-03-2020 The petitioner, who is in custody since 14.06.2019, seeks bail in connection with POCSO Case No. 54 of 2019, arising out of Rampur P.S. Case No. 180 of 2019 instituted for the offences under Sections 376, 302 of the Indian Penal Code and Section 6 & 8 of the Protection of Children From Sexual Offences Act, 2012.

The F.I.R has been lodged by the father of the deceased who has alleged that when he and his wife had come back home, they had woken up their daughter(deceased) who disclosed that in the night, the petitioner had ravished her. The deceased was not in a



good shape of health and therefore she was taken to a doctor. While coming back from the clinic of the doctor, the deceased died.

The narrative of the informant has a lot many wedges and chinks for it to be accepted as an *ex-facie* true statement. The postmortem report of the deceased clearly indicates that she was subjected to forceful sexual intercourse. The hymen was found to be ruptured and there were injuries on her genitalia. But surprisingly the cause of death is stated to be asphyxia because of strangulation.

This Court, on a first blush, was in a quandary as to whether the allegation of rape against the petitioner is correct as in the F.I.R, it has clearly been stated that the deceased was alive in the night and it is only on her disclosure before her parents that allegation has been levelled against the petitioner.

There is complete exclusion of the presence of the petitioner between the time the statement made by



the deceased before her parents and till she died. In that event, if the death is because of asphyxia and strangulation, a definite accusing finger is raised against the informant, in whose company the deceased is said to have been taken to hospital and had been brought back. Who strangled the deceased is therefore not known but it can surely be stated that the petitioner cannot be attributed with the act of killing the deceased.

So far as the petitioner is concerned, the allegation of rape made against him stands corroborated by the postmortem report as has been noted above.

For the aforesaid reason, notwithstanding the fact that petitioner is in custody since 14.06.2019, his prayer for bail is rejected.

This Court, on questioning the counsel for the parties was informed that the investigation against the conduct of the informant is still pending.

The informant appears to have approached this Court for grant of anticipatory bail in which he has got



an interim reprieve.

It would not be prudent to state anything else with respect to the informant as this Court has only been called upon to decide the issue of grant of bail to the petitioner. All that this Court directs is that investigation ought to be concluded on correct lines and the guilty be subjected to the process of law.

The application stands rejected for the present.

(Ashutosh Kumar, J)

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