

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86482 of 2019

Arising Out of PS. Case No.-282 Year-2019 Thana- MAJHAULIA District- West Champaran

ASRAF MIAN S/O Sarajul Mian R/O Village- Jaukatiya, Nai Dih, P.S.-
Majhauria, Dist.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 05-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is languishing in jail since 11.6.2019 in a case registered for the offence punishable under Section 366A of the IPC.

The prosecution case, as per the written report of Kishundeo Sah submitted to the SHO, Majhauria Police Station, is to the effect that on 7.6.2019 at about 4.15 A.M., the daughter of the informant, namely, Rambha Kumari went out side to ease but she did not return. During search, on 9.6.2019 at 9.00 PM, the informant came to know that she was lastly seen near the panchayat Bhawan. The informant went there along with other persons and found his daughter sitting in Panchayat Bhawan.



She conveyed that Asraf Mian (petitioner) had kidnapped her.

It is submitted by learned counsel for the petitioner that the victim has been found between 17-19 years of age. The medical report does not suggest any injury internal or external nor any sign of sexual assault on the body of the victim. It is further submitted that the victim girl was not under confinement since, admittedly, the informant found his daughter sitting in the Panchayat Bhawan when the door of the Panchayat Bhawan was not locked which suggests that the victim was sitting there of her own, hence, no case under Section 366A of the IPC is made out against the petitioner. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded. For the occurrence of 7.6.2019 the FIR has been registered on 10.6.2019.

Learned APP submits that the accusation is specific against the petitioner in view of the statement of the victim.

Considering the delayed lodging of the case, medical report not suggesting any injury on the person of the victim which rules out the possibility of the commission of rape upon the victim, the accusation does not inspire confidence as the victim was found by her father sitting in Panchayat Bhawan



without the door the Panchayat Bhawan locked, investigation has already been concluded, coupled with the period in custody, 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 CJM, Bettiah in connection with Majhauriya P.S. Case No. 282 of 2019.

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 of the like amount each to the satisfaction of the learned CJM, Bettiah in connection with Majhauriya P.S. Case No. 282 of 2019 including one surety given at the time of provisional bail.

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



over in three months.

(Dinesh Kumar Singh, J)

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