

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85897 of 2019

Arising Out of PS. Case No.-40 Year-2019 Thana- MAHILA District- Munger

Mithun Yadav S/o Chhatish Yadav @ Satish Yadav Resident of Village-
Patghaghar, P.S.- Tatiya, Bamber, Distt- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Kamal Nayan
For the Opposite Party/s : Mrs.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 22-06-2020 The matter has been taken up through virtual Court
proceeding.

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

The petitioner is languishing in custody since
10.11.2019 in a case registered for the offences punishable
under Sections 376/354A/34 of the Indian Penal Code, 1860,
Section 4 of the Protection of Children from Sexual Offences
Act, 2012 and Sections 3(i)(xii) of SC/ST (Prevention of
Atrocities) Act, 1989 hence, the prayer for bail has been made
through the present application.

The prosecution case, as per the written of the
informant namely, 'X' (changed name) submitted to the Station
House Officer, Munger Mahila P.S., is to the effect that on



07.10.2019, the informant and her maternal aunt, Babita Kumari went to a fair and while returning from the fair, on the way, four persons came, out of which, she identified one person namely, Mithun Yadav, the petitioner. It is alleged that the informant along with Babita Kumari went to ease out when this petitioner ravished the informant and kept her with him whole night. Thereafter, the informant along with Babita Kumari came back to the fair again and on the next day, i.e., on 08.10.2019, the informant came back to her house and conveyed about the occurrence to her family members.

It is submitted by learned counsel for the petitioner that the conduct of the informant appears to be highly unreasonable. In the statement recorded under Section 164 Cr.P.C., the informant has supported the accusation of rape and there is material inconsistency in the statement of the informant recorded under Section 164 Cr.P.C. and the accusation levelled through written report, the FIR. It is further submitted that the medical report neither suggests any external or internal injury on the body of the informant nor any sign of rape. The investigation has already been concluded and for the alleged occurrence of 07.10.2019, the written report was submitted on 10.10.2019. A statement has been made in paragraph no.3 of the



petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that there is specific accusation against the petitioner.

Considering the unreasonableness of the informant after commission of the offence of being ravished she went back to the fair again and on the next day, she returned, delayed lodging of the written report, the fact that the medical report completely negates the accusation, investigation has already been concluded and statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 1st -cum- Special Judge (POCSO Act), Munger in connection with Munger Mahila P.S. Case No. 40 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 upon 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 the learned Additional Sessions Judge 1st -cum- Special Judge (POCSO Act), Munger in connection with Munger Mahila P.S. Case No. 40 of 2019.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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