

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86311 of 2019

Arising Out of PS. Case No.-83 Year-2019 Thana- RUPAULI District- Purnia

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JYOTISH RAM @ JYOTISH KUMAR RAM Son of Thakur Ram Resident
of Village - Gwalpara, P.S.- Rupouli, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar

For the Opposite Party/s : Mr.Dashrath Mehta

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 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 15.10.2019 in a
case registered for the offences punishable under Sections 363
and 366/34 of the IPC. Subsequently, charge sheet submitted
under Sections 363,366/376 of the IPC.

The prosecution case, as per the written report of Hiralal
Singh submitted to the SHO, Rapauli Police Station, is to the
effect that on 16.7.2019 at 4.00 P.M., the daughter of the
informant namely, Khusboo Kumari, aged 18 years, left the
house without informing any body. When the informant returned
from the agricultural field, he started searching for her daughter
and during search, it was found that the petitioner had
kidnapped her. When the informant went to inquire from the



parents of the petitioner, they did not give satisfactory answer rather they kicked the informant out from their house. In the statement under Section 164 Cr.P.C., the victim got her age recorded as 17 years and the Court also assessed as such, wherein the victim stated that she went to get some documents xeroxed when some unknown boy offered her tea and she felt dizzy and then the boy took her to a place where the maternal uncle of the boy came who misbehaved with her and on the point of gun forced the victim to perform marriage with the boy. Subsequently, the victim performed Court marriage with the boy.

It is submitted by learned counsel for the petitioner that in the FIR, the age of the victim has been recorded as eighteen years when in her statement under Section 164 Cr.P.C., the victim got her age recorded as 17 years and the Court also assessed as such but during medical examination the age of the victim girl has been assessed as 19 years. It is further submitted that during medical examination, no sign of external or internal injury was found on the body of the victim. When the victim performed court marriage and did not complain anything to the Court, hence it can be presumed that she performed marriage with consent and subsequently, a different story has been



cooked up. The statement under Section 164 Cr.P.C. of the victim further creates doubt when she has stated that some unknown boy offered her tea, as a result she felt dizzy. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the accusation against the petitioner is specific in the FIR which gets supported by the statement of the victim under Section 164 Cr.P.C. and after investigation, the petitioner has been chargesheeted.

Considering the fact that the medical opinion completely negates the accusation of rape upon the victim and the performance of Court marriage further creates doubt about the commission of offence without consent, 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 ACJM, Purnea I in connection with Rupauli P.S. Case No. 83 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 ACJM, Purnea I in connection with Rupauli P.S. Case No. 83 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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