

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28388 of 2020

Arising Out of PS. Case No.-292 Year-2017 Thana- SIKARPUR District- West Champaran

SONU KUMAR Son of Shri Chhotelal Das Resident of Village- Pandey Tola
Narkatiaganj Ward No.23, Police Station- Shikarpur, District- West
Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai, Advocate.

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 01-02-2021 Heard the parties.

The petitioner is languishing in custody for the offence punishable under Sections 366A, 368, 376, 506, 504 and 120B of the Indian Penal Code and Sections 8, 10 and 12 of the POCSO Act in connection with Shikarpur P.S. Case No. 292 of 2017.

It appears that the petitioner was on bail granted by this Court in Cr. Misc. No. 4479 of 2018 on 29.01.2018 in connection with Shikarpur P.S. Case No. 292 of 2017. Bail was granted because the victim in her statement under Section 164 Cr.P.C. stated that she had love affairs with the petitioner and she had voluntarily married with the petitioner. After release of the petitioner, the cognizance was taken in the case on 13.08.2019 and thereafter summons and warrant were issued.



However no service report was there on the record and the petitioner voluntarily surrendered on 16.03.2020 and by the impugned order, prayer for bail to the petitioner has been refused by the court below on the ground that while granting bail this court had directed that if the petitioner would not cooperate with the trial that would be a ground for cancellation of bail.

It is not evident that the petitioner was not cooperative with the trial because no service of summon, etc. was there before the court below. Court below has presumed that in the event of release, the petitioner would tamper with the evidence.

Considering the facts aforesaid, the impugned order is hereby set aside. The petitioner shall remain on the bail bond already furnished before the court below.

Accordingly, this application stands disposed of.

(Birendra Kumar, J)

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