

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31780 of 2020

Arising Out of PS. Case No.-12 Year-2019 Thana- MAHILA P.S. District- Patna

Hira Singh, Male, aged about 25 years, Son of Late Bachu Singh, Resident of Village/ Mohallah- Narainpur, P.S.- Bikram, District- Patna (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate

For the State : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-01-2021

Heard Mr. Rakesh Kumar, learned counsel for the petitioner and Mr. Rana Randhir Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Special Case No. 25 of 2019 arising out of Mahila PS Case No. 12 of 2019 dated 16.02.2019, instituted under Sections 341/342/376 of the Indian Penal Code and 4 of The Protection of Children from Sexual Offences Act, 2012.

3. The petitioner is accused of raping the minor daughter of the informant.

4. Learned counsel for the petitioner submitted that he is the next door neighbour of the informant and, thus, the whole



story is concocted due to land dispute between the parties and four days prior to the FIR, the mother of the petitioner had submitted a complaint to the Sarpanch stating that there is ongoing dispute of land between the parties and had asked him to settle the same. Learned counsel submitted that in the statement before the police the girl has stated that at 10:00 pm while she was returning from a marriage the petitioner had forcibly taken her to his house whereas in her statement under Section 164 of the Code of Criminal Procedure, 1973 it has been stated that while she was going for the wedding at 7:00 pm, the incident occurred. Learned counsel submitted that it is unbelievable that a 15 years old minor girl would be left for the whole night without the guardians looking for her and also that the next door neighbour would abduct the girl and commit rape just in the house by the side of the house of the informant. Learned counsel further submitted that the most surprising part is that the victim girl is said to have returned on her own at 5:00 am the next day, which also shows that there is no truth in the allegation as nobody would leave evidence to be implicated in a case if at all the crime was committed. Learned counsel submitted that the scientific report which is independent, that is, the medical report, has also not found any sign of rape or assault



on the body or private part and also no spermatozoa. It was submitted that the petitioner is in custody since 17.02.2019.

5. Learned APP submitted that the girl has stated before the Court that the petitioner had abducted her and raped her. However, he could not controvert with regard to the contradiction in the statement before the police and the Court and further that the medical report does not indicate any assault or rape.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge, 1st-cum-Special Judge (POCSO), Patna in Special Case No. 25 of 2019 arising out of Mahila PS Case No. 12 of 2019, subject to the conditions that (i) one of the bailors shall be a close relative of the petitioner, (ii) the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to



cancellation of his bail bonds. The petitioner shall cooperate in the case. Failure to cooperate shall also lead to cancellation of his bail bonds.

7. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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