

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35755 of 2020

Arising Out of PS. Case No.-16 Year-2020 Thana- MAHILA PS District- Aurangabad

CHANDAN SINGH son of Nawal Singh @ Nawal Kishore Singh Resident of
Village- Dhanibar, P.S.- Piriup, District- Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Singh
For the Opposite Party/s	:	Mr.Ashok Kumar
For the informant	:	Mr. Akhilesh Pandey

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 05-03-2021 The matter was heard at length and today, this case has
been listed “For Orders”.

The petitioner seeks regular bail in connection with
Aurangabad Mahila PS case no. 16 of 2020 instituted for the
offences punishable under Sections 376(D)(A) of Indian Penal
Code, 4 of POCSO Act and 67 of I.T. Act.

The case of the prosecution in brief is that on
16.07.2020, in the evening, while the victim girl i.e. the daughter
of the informant had gone outside her residence to bring the bucket
for serving water to the Buffalo, the petitioner herein along with
one other accused person had caught her and dragged her in the
Sesam Orchard, where the petitioner and other co-accused persons
had raped her, one by one.

The learned counsel for the petitioner has



submitted that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 27.07.2020. The learned counsel for the petitioner has further submitted that no case is made out under Section 376D of Indian Penal Code as also under Section 4 of Protection of Children from Sexual Offences Act, inasmuch the age of the victim girl has been found to be more than 16 years. It is further submitted that earlier also, the petitioner was made an accused in Risiup PS case no. 17 of 2015 under Sections 448, 380, 324, 376, 511/34 of Indian Penal Code at the behest of the elder daughter of the informant namely Soni Kumari on the same and similar allegations, however the petitioner was granted police bail in the said case. It is further submitted that the petitioner and the victim girl are neighbours and on account of previous enmity, the petitioner has been falsely implicated in the present case. The learned counsel for the petitioner has also submitted that the FIR in question has been filed belatedly, hence the ulterior motive of the informant is apparent.

Per contra, the learned A.P.P. for the State has submitted that the complicity of the petitioner in the alleged crime is writ large from the records and the victim girl has supported the commission of rape by the petitioner in her statement made under Section 164 Cr.P.C. before the learned Magistrate. It is further



submitted by referring to the medical report of the victim girl that the doctor has opined that the possibility of sexual act cannot be ruled out, hence the commission of rape by the accused persons also stands corroborated by the medical report of the victim girl.

Having regard to the facts and circumstances of the case, considering the arguments advanced by the learned counsel for the parties, apart from having perused the materials on record as also those available in the case diary, this Court finds that the complicity of the petitioner in the alleged crime is writ large on the records and there are ample materials which have been collected during the course of investigation to *prima facie* constitute the offence as alleged against the petitioner herein, apart from the fact that the victim girl has also supported the allegations levelled in the FIR in her statement made under Section 164 Cr.P.C. before the learned Magistrate, hence I do not find any merit in the present petition, accordingly the same stands dismissed.

(Mohit Kumar Shah, J)

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