

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7311 of 2021

Arising Out of PS. Case No.-664 Year-2020 Thana- SUPAUL District- Supaul

Md. Mustak, S/o Md. Sadrul Haque, Resident of Village - Patel Chowk, Ward
No. 26, Supaul, P.S. and District - Supaul

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nafisuzzoha, Advocate

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 02-08-2021 The matter has been taken up today for
consideration through video conferencing.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

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

The petitioner seeks bail in connection with Supaul
P.S. Case No.664 of 2020 registered for the offence punishable
under Section 376(DA)/34 of the Indian Penal Code and Section
4 of the POCSO Act.

Due to some domestic disputes, it is alleged that the
informant-a young girl has run away from her house and



thereafter she has allegedly been raped by the petitioner.

Case diary had earlier been called for. With reference to the case diary, attention of this Court has been drawn to the statement of the victim recorded under Section 164 Cr.P.C. No allegation as regards the rape has been made against the petitioner whatsoever in the statement. At best, it states that the petitioner was stalking the informant.

Petitioner's counsel submit that such stark variance renders the entire prosecution doubtful and unreliable. Petitioner under such circumstances having no criminal antecedents, has been in custody now since 22.09.2020.

Learned APP for the State has opposed the prayer for bail. However, the factual position with regard to the statement under Section 164 Cr.P.C. remains undeniable.

Considering the rival submissions, this Court is inclined to allow the petitioner's prayer for bail.

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-VI, Supaul, in connection with Supaul P.S. Case No.664 of 2020, subject to the following conditions:



(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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