

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 14200 of 2021**

Arising Out of PS. Case No.-311 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

Sonu Kumar, aged about 19 years, Male Son of Munna Sah, Resident of Village- Usri Bazar, PS- Baikunthpur, District- Gopalganj.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Singh, Senior Advocate with
Mr. Manish Kumar Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP
For the Informant : Mr. Rajeev Ranjan, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 15-09-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Rajesh Kumar Singh, learned senior counsel along with Mr. Manish Kumar Singh, learned counsel for the petitioner; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Rajeev Ranjan, learned counsel for the informant.

3. The petitioner is in custody in connection with Baikunthpur PS Case No. 311 of 2019 dated 04.12.2019, instituted under Sections 326/34 of the Indian Penal Code and 8/12 of the Protection of Children from Sexual Offences Act, 2012.



4. This is the second attempt for bail by the petitioner as earlier such prayer was rejected by judgment dated 07.07.2020 passed in Cr. Misc. No. 15706 of 2020.

5. Learned senior counsel for the petitioner submitted that though in the last order of rejection, the Court had noticed the submissions of learned APP that the girl was examined on the same day by the doctor i.e., 04.12.2019, but from the medical report, copy of which has been made Annexure-3, it transpires that the same has been signed by the doctor on 26.12.2019, in which it has been stated that the injury had been caused within two hours. Thus, learned senior counsel submitted that the allegation being that the petitioner had thrown acid on the face of the victim on 04.12.2019, gets falsified and the doctor has found the injury to have been caused within two hours on 26.12.2019 i.e., more than three weeks after the alleged incident.

6. On 04.08.2021, in view of the aforesaid submissions of learned senior counsel for the petitioner, the Court had asked learned APP to obtain the up-to-date legible photo copy of the entire police papers including the case diary of Baikunthpur PS Case No. 311 of 2019, as also copy of the injury reports of the



victim, from the Superintendent of Police, Gopalganj. The same have been received by him.

7. Learned senior counsel for the petitioner submitted that the injury report disclosing the date of the report as 26.12.2019 and indicating that the same was caused within two hours clearly demolishes the prosecution case. Further, it was submitted that besides the said injury report, no other document has been filed by the prosecution while submitting chargesheet against the petitioner and, thus, the veracity and correctness of the allegation is under serious doubt. Learned senior counsel submitted that co-accused Raja Kumar has been granted bail by a co-ordinate Bench by order dated 20.05.2021 passed in Cr. Misc. No. 38 of 2021. It was submitted that in the said case, the Court had issued notice to the informant and the victim but they had not appeared before the Court.

8. Learned APP, from the case diary, submitted that the Superintendent of Police, Gopalganj has also sent a report obtained from the In-charge of the Health Centre, Baikunthpur in which it has been stated that the victim was brought to the Centre on 04.12.2019 itself and after making entry in the Register with regard to her injuries, she was referred to Patna Medical College and Hospital where she went on an ambulance and it has further



been stated that the doctor who had seen her, namely, Dr. Kumar Nishant, had prepared a formal injury report on 26.12.2019. Thus, it was submitted that the report details the injury which were found on the victim on 04.12.2019 itself, but an extract and formal writing of the injury report was done on 26.12.2019, which does not mean that the injury suffered was on 26.12.2019 within two hours. Learned APP submitted that the victim girl and witnesses have been very specific and categorical that it was the petitioner along with co-accused who had thrown acid on her and while trying to save herself, the acid came in contact to her face leading to acid burn injuries.

9. Learned counsel for the informant, from the counter affidavit filed by him, submitted that the discharge certificate of Patna Medical College and Hospital, copy of which has been annexed to the counter affidavit, shows that there was chemical burn over the face and that it would require plastic surgery as has been noted in the advice of discharge. Further, learned counsel submitted that the reason for the informant and petitioner not appearing before the co-ordinate Bench was that it was in the peak of the second wave of the COVID-19 pandemic due to which movement of the informant and the victim was curtailed.



10. Learned senior counsel for the petitioner submitted that such clarification which has now been forwarded to the Court by the In-charge of the Health Centre, Baikunthpur with regard to the injury report is of no evidentiary value as it cannot be placed before the Court since neither such report nor the report from the Patna Medical College and Hospital were submitted in support of the chargesheet filed by the police.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court would only observe that at the present stage, the Court is only required to form an overall perception with regard to the merits of the matter, especially in light of the allegations made in the FIR and the police investigation leading to submission of chargesheet against the petitioner. With such object, the report which has come to the Superintendent of Police, Gopalganj, which includes the report of the Patna Medical College and Hospital as also the Health Centre, Baikunthpur, where the victim was initially taken after the incident as also the materials which have surfaced during investigation, the Court is not inclined to grant bail to the petitioner as it does not find any mitigating circumstances for the same.



12. As far as grant of bail to co-accused Raja Kumar is concerned, the Court would only observe that the report with regard to entry made in the register of the Health Centre, Baikunthpur as also that of the Patna Medical College and Hospital were not before the co-ordinate Bench.

13. Thus, taking an overall view in the matter, the petition stands dismissed.

14. However, in view of the fact that chargesheet has been filed, the Court below is directed to expedite the trial.

(Ahsanuddin Amanullah, J.)

P. Kumar

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