

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 43732 of 2019

Arising Out of PS Case No.-195 Year-2018 Thana- KONCH District- Gaya

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Bhola Paswan (Male aged about 40 years) Son of Late Sharad Paswan,
Resident of Village-Krit Nawada, Police Station-Chandauti, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 27-11-2019

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

2. The petitioner seeks bail in Konch PS Case No. 195
of 2018 dated 14.06.2018 instituted under Sections 395, 397,
376(D), 376 (3) and 376DA of the Indian Penal Code and Section
6 of The Protection of Children from Sexual Offences Act, 2012.

3. The petitioner along with many other unknown is
accused of committing rape on the wife and daughter of the
informant.

4. Learned counsel for the petitioner submitted that he is
not named in the FIR and later has been implicated on the
confessional statement of co-accused Ramu Paswan. It was



submitted that even in the Test Identification Parade, in the second round, the petitioner has been identified. Learned counsel submitted that there is variance in the statement of the wife of the informant with regard to the number of persons who committed rape and the medical report has not been able to specifically give a finding with regard to rape.

5. Learned APP, from the case diary submitted that the informant, his wife and daughter having no personal enmity cannot be said to be speaking lie. It was further submitted that no person would take the advantage of his wife and daughter alleging that they have been raped and further that admittedly the petitioner is not known to the informant and, thus, there cannot be any question of false implication. With regard to the issue of there being variance in the statement of the wife of the informant and identification in the second round, it was submitted that the Court would not lose sight of the fact that a traumatized woman having been gangraped cannot be expected to lie and state the same version repeatedly and even the so called discrepancies do not weaken the prosecution case with regard to the number of persons who are alleged to have committed rape as it includes persons, who had actively participated in commission of the offence.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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