

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4370 of 2019**

Arising Out of PS. Case No.-489 Year-2019 Thana- SONEPUR District- Saran

BAHARAN RAI Son of Late Parasa Rai Resident of Village - Sabalpur
Nawal Tola, P.S.- Sonepur, District- Saran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mohammad Sufyan
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 17-12-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The appellant in the present case is seeking setting aside the order dated 02.08.2019 passed by Special Court POCSO Act Saran, Chapra in connection with Sonepur P.S. Case No. 489/2019 registered under Sections 354A, 354B of the Indian Penal Code, under Section 8 of the POCSO Act and under Section 3(1)(w)(i) of the SC/ST Act.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner by police as the petitioner is a tempo driver and had not been in good relationship with the police. It is submitted that at the first instance the investigation has now revealed that the age of the victim girl is in between 16 to 17 years, the medical



board has examined the victim girl and has recorded that there is no injury on her body and private parts, the hymen is being intact and the medical board has categorically stated that there is no evidence of intercourse with the victim.

Learned counsel then points out that in the first information report the victim girl is said to have stated that she was taken on the tempo at about 3.40 P.M. on 12.07.2019, she was taken to a room where this petitioner had indulged in doing wrong acts, the victim girl said to have shouted on which the police party reached and the petitioner was arrested, but when she was produced before the learned Magistrate and her statement was recorded on 15th July, 2019 she alleged that on 12.07.2019 one person caught her hand and took her in a tempo, then he brought her to his house where his parents were also there and the victim girl was kept for three days then it is alleged that the said person had indulged in doing wrong acts and thereafter he took her to her house.

Learned counsel submits that in the statement recorded by learned Magistrate in certain lines the



statements have been cut down by pen without there being any initial and it may be easily read from those cut down statement that the victim girl had been saying that she was not kidnapped by anyone. It is submitted that a completely contradictory statement of the victim girl as alleged in the F.I.R. and then in her 164 statement and then the medical report clearly saying that no intercourse has been done with the victim girl clearly suggest that it is a case of false implication.

Considering these aspects of the matter, the contradictions pointed out and the Medical Report saying no sign of sexual intercourse, this court finds that the petitioner has been able to make out a case for grant of regular bail at this stage as the petitioner has already remained in custody since 14.07.2019 and now the investigation is complete, the impugned order in so far as it relates to the appellant is set-aside, let the above-named appellant be enlarged on bail on furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge - 1st – cum – Special Judge,



POCSO Act, Saran, Chapra, in connection with Sonapur
P.S. Case No. 489 of 2019, subject to the condition as laid
down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance
with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence
similar to the offence of which he is accused, or suspected,
of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly
make any inducement, threat or promise to any person
acquainted with the facts of the case so as to dissuade him
from disclosing such facts to the Court or to any Police
Officer or tamper with the evidence.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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