

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2367 of 2020

Arising Out of PS. Case No.-674 Year-2019 Thana- MADHAURAH District- Saran

Bhim Rai, Son of Haricharan Rai, Resident of Village-Narharpur, Police
Station-Madhaura (Gaura O.P.), District-Chapra (Saran).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ankur Prakash Sinha, Advocate

For the Opposite Party/s : Mr.Mukeshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-03-2020 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Madaura (Gaura O.P.) P.S. Case No. 674 of 2019 registered for the offences punishable under Section 376 of the Indian Penal Code and Sections 4/6 of POCSO Act.

Learned counsel for the petitioner submits that it is a false and concocted case in which the petitioner has been implicated because of the village politics as both the informant's family and the petitioner belong to the same village and they had some differences on some petty issues. Learned counsel submits that in the First Information Report there is specific allegation that this petitioner had committed rape on the informant twice on the alleged date i.e. on 03.10.2019 at about



5.00 A.M. The informant claims that her parents reached the place of occurrence and then she was taken to the Mahila Police Station where her statement was recorded at 1.00 P.M. on the same day and she was sent for medical examination.

Learned counsel submits that the medical examination report would categorically reveal not only that the victim girl has been found to be above the age of 19 years but even the Medical Officer who examined the victim girl did not find any sign of recent intercourse.

Learned counsel has taken this Court through the medical examination report as contained in Annexure '2' which is also the part of the case diary and points out that the doctor did not find any spermatozoa either dead or alive, the victim girl was though found habituated to intercourse but the doctor did not find any evidence of recent intercourse.

Learned counsel thereafter took this Court through the statement of the victim girl recorded under Section 164 Cr.P.C. and submits that although initially the victim girl alleged that the petitioner had committed wrong act with her but at one stage she has stated before the learned Magistrate that the accused-petitioner had only open her cloth, later on she claimed that he had also committed wrong act.



It is submitted that the informant is an illiterate lady, the kind of demeanour which may be found in the statement under Section 164 Cr.P.C. in paragraph '7' of her statement recorded by the learned Magistrate coupled with the medical examination report would suggest that her sole statement in the allegation saying that the petitioner had committed rape on her is not supported by any prima-facie material.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner, however, going through the case diary learned A.P.P. for the State does not dispute the position that in the medical examination report the doctors have specifically noted that no recent sign of intercourse has been found, no spermatozoa was found either dead or alive though the medical examination was conducted on the same day.

Learned A.P.P. for the State, however, submits that later on the parents of the informant went to the alleged place of occurrence where they found the victim girl and the petitioner was allegedly fleeing away.

Considering the facts and circumstances of the case and the materials present on the record and taking note of the particular fact that on the same date of the alleged occurrence when the informant was examined by the doctor, the doctor did



not find any sign of rape on her, no spermatozoa was found either dead or alive and further that no recent sign of intercourse was present though according to the informant the petitioner had committed rape twice on her, the medical report not at all supports the allegations and further at one stage in paragraph '7' of her statement made before the learned Magistrate she once made statement that the petitioner had only opened her cloth (pant) but thereafter she made statement that he had also committed the wrong act, both the parties are co-villagers and at this stage, the investigation against the petitioner is complete, let the petitioner above named be released on bail in connection with Sessions Trial (POCSO) No. 110 of 2019 arising out of Madaura (Gaura O.P.) P.S. Case No. 674 of 2019 on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-I-cum-Special Judge (POCSO), Saran, 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)

vats/-

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