

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.26223 of 2020**

Arising Out of PS. Case No.-364 Year-2019 Thana- BASANTPUR District- Siwan

AFZAL ALAM Son of Shamim Sai Resident of Village - Sharif Jalalpur, P.S.-
Lakari Naviganj Basantpur, District - Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Y.C. Verma, Sr. Advocate

For the Opposite Party/s : Mr.Rita Verma, APP

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

3 12-11-2020 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned Senior Counsel for the petitioner and Ms. Rita Verma, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Lakari Naviganj Basantpur P.S. Case No. 364 of 2019 registered for the offences punishable under Sections 366(A), 506/34 of the Indian Penal Code and Section 8 of the POCSO Act.

Learned Senior Counsel for the petitioner submits that from the First Information Report it will appear that the allegation of alluring for the purpose of marriage to the victim girl has been made against co-accused Nawajis Imam. It is alleged that he had taken away the victim girl on his motorcycle. The other female co-accused have been named as his associates who have assisted the said Nawajis Imam. This petitioner is not named in the FIR. When the victim girl was recovered,



she made a statement under Section 164 Cr.P.C. In her statement she has named Nawajis Imam as her friend and admitted her relationship with him. The two female friends of the victim girl had helped her and encouraged her in fleeing away with said co-accused Nawajis Imam. With the help of the two female friends the victim girl left her house and reached at a particular place where Nawajis was already waiting with his bike. She was left with co-accused Nawajis who took her on his motorcycle to another place.

At this stage it is alleged that this petitioner who happens to be the friend of Nawajis and a co-villager of the victim was there and at the instance of co-accused Nawajis to go with this petitioner to Delhi, the victim girl left for Delhi by train with this petitioner. She has stated that she lived for 4 days in the house of this petitioner where his wife was also living. On the 5th day co-accused Nawajis came, took a room on rent and then the victim girl was asked to go there where she was not willing to go but on his threatening she went to the room with co-accused Nawajis. It is alleged that said Nawajis was not allowing the victim girl to go outside the room, though she was getting food and was not being beaten by him but sometimes he had given her slaps and on two occasions he had made physical relationship with the victim. She lived with Nawajis for one month 10 days whereafter Nawajis brought her to her village and left her there.

Learned Senior Counsel for the petitioner submits that from the materials which have come in course of investigation particularly statement of the victim girl, it is evident that so far as this petitioner is



concerned, he was not instrumental in alluring or taking away of the victim girl from her village. The only role which has been assigned to him is that on the asking of co-accused Nawajis the victim girl had gone to Delhi with this petitioner where she resided with the petitioner and his wife for 4 days. There is no allegation that this petitioner had ever done any indecent act with the victim girl.

Learned Senior Counsel submits that in the given facts and circumstances of the case the petitioner who has otherwise no criminal antecedent and has remained in jail for nine months deserves the privilege of regular bail.

Learned APP for the State has opposed the prayer for regular bail of the petitioner, however, considering the facts and circumstances of the case and the role assigned to the petitioner in the whole occurrence, there being no allegation of commission of any indecent act against the petitioner and the petitioner having remained in jail for nine months, there being no criminal antecedent of the petitioner and at this stage there is no argument on behalf of the State that the grant of bail to the petitioner at this stage is in any way likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above-named be released on bail on furnishing bail bond of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, Siwan in connection with Basantpur (Lakari Naviganj) P.S.Case No. 364 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.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner.

This application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

