

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.29161 of 2020**

Arising Out of PS. Case No.-38 Year-2020 Thana- MAHILA PS District- Buxar

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Deepak Kumar, S/o Awadhesh Rai @ Munmun Rai @ Awadhesh Kumar Ray,
Resident of Village- Chunni, P.S.- Buxar Muffasil, District- Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Krishna Prasad Singh, Sr. Advocate

For the Opposite Party/s : Mr. Parmanand Kumar, A.P.P.

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

3 23-12-2020 Heard learned Senior Counsel for the petitioner and

Mr. Parmanand Kumar, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail

in connection with POCSO Case No. 16 of 2020 arising out of

Buxar (Mahila) P.S. Case No. 38 of 2020 registered for the

offence under Section 376 of the Indian Penal Code and Section

4 of POCSO Act.

Learned Senior Counsel for the petitioner submits that

as per the allegations made in the First Information Report

lodged on 29.05.2020, when the daughter of the informant had

gone for easing out on 28.05.2020 at about 7.00 P.M., her co-

villager (petitioner) caught hold of her by her hand, took her

towards the bamboo clamps and forcibly after opening her



clothes committed rape on her. The informant claimed that she was working in the Middle School, Chunni as a cook in the Korona centre and on getting information about this occurrence she came to her house where her daughter told this story.

Learned Senior Counsel submits that on the same day the victim girl was examined by Doctor and in the medical examination no injury has been found on her private parts. The vaginal swab was taken but no spermatozoa was found either alive or dead on low and high power of microscopic examination. It is further submitted that the victim girl was also produced before the learned Judicial Magistrate for recording her statement and it would appear from the materials on the record that on 1st day of June, 2020 when she had made her statement the victim girl has stated that no such occurrence had taken place with her and that her mother has lodged the case at the instance of somebody else.

Learned Senior Counsel submits that in course of investigation not a single independent witness has come forward to say that he had seen the petitioner near the place of occurrence either present or fleeing away from the said place at the time of alleged occurrence. It is, thus, submitted that there is no material collected in course of investigation so as to justify



further incarceration of the petitioner in judicial custody.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

The case diary has been received and the same is available on the record. It has been recorded up to 14.07.2020 and on going through the same this Court is persuaded to take a view at this stage that in the nature of the materials present in form of the statement of the victim girl before the learned Judicial Magistrate, her medical examination report and that there is no independent witness in the case diary confirming presence of the petitioner at the place of occurrence at the relevant time whereas the informant claims that many villagers had assembled at the place, this Court is of the opinion that further incarceration of the petitioner in jail custody would not be in aid of prosecution.

Let it be also recorded that the investigation against the petitioner is complete, he is in custody in connection with this case since 29.05.2020 and there is no submission on behalf of the State that his release on bail is 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 of bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum-Special Judge, Buxar in connection with POCSO Case No. 16 of 2020 arising out of Buxar (Mahila) P.S. Case No. 38 of 2020, 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 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 step for cancellation of bail bond of the petitioner.

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.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

