

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29449 of 2020

Arising Out of PS. Case No.-41 Year-2019 Thana- MAHILA PS District- Aurangabad

RAJU CHAUDHARY @ TEJU, Son of Late Naresh Chaudhary, R/V -
Janakpur (Pokharpar), P.S. - Nabi Nagar, District - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Ms. Renu Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 26-11-2020 The matter has been taken up through virtual Court proceeding.

Let the defects be removed within two weeks of the start of the physical Court.

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

Petitioner seeks bail in a case registered for the offences punishable under Section 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offenses Act, 2012.

Allegation against the petitioner is that he ravished to a minor girl.

Learned counsel for the petitioner submits that petitioner is in custody since 02.11.2019 and the medical report of the victim at Annexure-3 would show that the Medical Board



was of the opinion that old rapture of hymen was noticed. There was no bleeding or injury on the part of the body of the victim.

On the basis of aforesaid report, submission is that this was not a case of rape.

A Doctor is not an expert of rape. No physical resistance would cause no injury and that does not amount to consent as laid under Section 375 of the Indian Penal Code. Moreover, consent of a minor is immaterial. The victim has supported the allegation against the petitioner.

Considering the nature of allegation, I am not inclined to enlarge the petitioner on bail in connection with Mahila P.S. Case No. 41 of 2019 pending in the Court of learned 1st Additional Sessions Judge-cum-Special Judge, POCSO, Aurangabad. Hence, prayer for bail is refused.

Learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

The Superintendent of Police, Aurangabad shall ensure production of prosecution witnesses on each and every date fixed in the case.

(Birendra Kumar, J)

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