

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69025 of 2019

Arising Out of PS. Case No.-461 Year-2019 Thana- JAKKANPUR District- Patna

MAHENDRA DUBEY Son of Bhola Dubey Resident of Village - Near kali
Mandir, Postal Park, P.S.- Jakkanpur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur Mr. Kumar Chandra Shekhar
For the Opposite Party/s	:	Mr.Md. Mushtaque Alam

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 17-01-2020 Heard learned Counsel for the petitioner and the
learned APP for the State.

The petitioner, who is in custody, seeks bail in a case registered under Sections 406, 420, 506 and 376 of the Indian Penal Code in connection with Jakkanpur PS Case No. 6076 of 2019.

Prosecution case at the instance of the informant is that there was an agreement between her and the instant petitioner in respect of purchase of a land. The informant allegedly handed over some instalment for execution of sale deed. However the petitioner has neither executed sale deed nor returned the money back to her. When a demand was made for such return of money or executin of sale deed, on 23.7.2019 it is



said that the informant was allured by the petitioner on the pretext of returning the money and rape was committed upon the informant.

Counsel for the petitioner submits that from bare perusal of the allegation it is apparent that the FIR has been lodged on extraneous consideration arising out of land dispute. The petitioner is next door neighbour and that the investigation also has not corroborated the allegations. Referring to para 5, 34 and 72 of the case diary, which had earlier been requisitioned in the proceedings, it is submitted that the petitioner herself has not given the requisite evidence in support of her allegation inasmuch as she has not even allowed the investigating agency to examine the clothes she was wearing at the time of occurrence. The medical report also does not corroborate the allegation of rape. Counsel for the petitioner submits that he is already on bail in the earlier case arising out of Jakkampur PS Case No. 229 of 2019. The investigation is also complete.

Learned APP has opposed the prayer for bail. It is submitted that the allegation is of rape. The victim has supported her allegation while her statement was recorded under Section 164 Cr.P.C.

On consideration of rival submissions, having regard



to the fact that the petitioner has now been in custody since 25.7.2019, this Court is inclined to allow the privilege of bail to the petitioner.

Let the petitioner above named be released on bail on his furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of CJM Patna in Jakkanpur PS Case No. 461 of 2019 subject to the following conditions:-

(I) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date in the trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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