

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.81570 of 2019**

Arising Out of PS. Case No.-7 Year-2019 Thana- MAHILA PS District- Darbhanga

MD. SHAHABUDDIN, Son of Rahamtullah @ Rahmat, Resident of Village -
Jahangir Tola, P.S.- Kamtaul, Distt.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravindra Nath Dubey, Adv.

For the Opposite Party/s : Mr.Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 25-09-2020 Heard learned counsel for the petitioner and Mr.
Nityanand, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Mahila P.S. Case No. 07/2019 registered for the offences punishable under Section 376 of the Indian Penal Code.

The First Information Report has been lodged on the basis of a written report dated 04.02.2019 by the victim girl alleging that on 25.01.2019 while she returned her home from the flour mill where she had gone for crushing of the wheats, the petitioner came from behind and taking benefit of the absence of the mother of the informant the petitioner closed the door, committed rape on the informant and fled away whereafter the



informant raised hulla and informant brought it to the notice of one of the neighbours Nazbul Hasan, her parents and the other neighbours.

Learned counsel for the petitioner submits that from written report itself it would appear that the victim girl has not disclosed her age therein. She has lodged this complaint after ten days of the alleged occurrence. It is further submitted that in course of investigation the medical examination of the victim has been done and her age has been assessed between 18-19 years. The Medical Board has also reported that there is no positive evidence to suggest commission of recent sexual intercourse with emission with her. In paragraph '50' of the case diary she has made her statement under Section 164 Cr.P.C. Though she has stated that her neighbours had also seen the petitioner coming to and going from her home but no witness has come forward to say that he had seen this petitioner entering into or coming out from the house. In her written complaint also she has though stated that after the petitioner had left her house she came out and informed the occurrence to her neighbours. The petitioner is aged about 19 years and all the witnesses in the case diary have only said that they heard about the alleged occurrence and suggested that both of them should be married.



The witnesses also suggested that they had a meeting in the society and there they were of the view that if this petitioner had committed rape on the informant then both of them should be married but father of the petitioner refused to accept such proposal. It is, thus, the submission of learned counsel for the petitioner that so far as the allegations against the petitioner are concerned, it has been purposely made only to put pressure upon him to marry the girl. There is no witness saying that the petitioner had ever been seen in or around the house of the informant.

On the contrary, learned counsel for the petitioner has drawn the attention of this Court towards statement of several witnesses coming in paragraph 80, 81, 97 and 157 of the case diary wherein some of the co-villagers including independent witnesses have made statements that the allegations against the petitioner are totally false. He is a person of good character and has been framed in this case. One of the witnesses had gone to the extent of saying that he is next-door neighbour of the victim girl and knew her very well. She has got relationship with many boys and for that reason the villagers are worried, the allegations against the petitioner are false, the house of the informant is in damage condition and the Kabari



articles are kept there where she is talking about keeping of flour. The independent witness has also stated that the petitioner is innocent and the allegations against him are false and baseless. He is in custody for almost one year three months. It is also pointed out that the victim girl had not produced before the police, her clothes which she was wearing at the time of alleged rape and no bodily injury could be noticed by the doctor.

Mr. Nityanand, learned APP for the State has opposed the prayer for regular bail of the petitioner alleging that there is an allegation of rape against him.

Having regard to the facts and circumstances of the case upon noticing the facts that in this case the victim girl has been found aged between 18-19 years, the written complaint was lodged after ten days of the alleged occurrence, the victim girl did not produce her clothes which she was wearing at the time of alleged rape, the medical examination report does not suggest any injury on the body of the informant and no sign of recent sexual act has been noticed by the doctor, there is no witness much less any neighbour saying that they had ever seen the petitioner going inside the house of the informant or coming out of that house rather there are statement of the co-villagers including independent witnesses saying that the petitioner has



been wrongly framed in this case, he is said to have good character, he has otherwise no criminal antecedent, the petitioner is in custody for more than one year and he is aged about 19 years only looking for his social integration and there is no argument on behalf of the State that release of the petitioner on bail at this stage is likely to interfere with the course of trial or may have an affect of tampering with the evidence, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Darbhanga in connection with Mahila P.S. Case No.07/2019, subject to the conditions as laid down under Section 437(3) of the 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.

(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'.

