

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87509 of 2019**

Arising Out of PS. Case No.-158 Year-2019 Thana- IMAMGANJ District- Gaya

SAJID ALAM @ SAJID @ GUDDU Son of Md. Ekbal Miyan @ Ikbal
Ansari Resident of Village - Chhak Rabandha, P.S.- Imamganj, District -
Gaya (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh

For the Opposite Party/s : Mr.Md. Aslam Ansari

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

6 24-06-2020 The matter has been taken up through virtual Court
proceeding.

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

The petitioner is languishing in jail since 15.10.2019 in a
case registered for the offences punishable under Section 376 of
the IPC and Section 4 of the POCSO Act, 2012.

The prosecution case, as per the written report of
Badrudin Ansari submitted to the SHO, Imamganj Police
Station, is to the effect that on 2.9.2019 at about 2.00 P.M.,
while the informant's daughter (changed name X) was alone in
the house since the informant went outside to weed out grass
from their agricultural field, the petitioner came to the house of
the informant and called out the daughter of the informant and
thereafter the petitioner asked her to accompany him.
Thereafter, she was taken by the petitioner in the house of one



Ahad Mian, where she was ravished, whereupon the victim girl raised alarm and some how managed to escape from the place of occurrence and came back to house and conveyed the incident to the informant, leading to registration of the FIR.

It is submitted by learned counsel for the petitioner that though the age of the victim girl has been recorded in the written report as 17 years but the medical report suggests the age of the victim above 19 years. In the statement under Section 164 of the Cr.P.C. the victim has got her age recorded as 17 years when the Court assessed her age as the same. In the statement under Section 164 of the Cr.P.C. though she has supported the accusation of rape but in the last portion of her statement suggests that she is ready to marry with the petitioner and the petitioner is also ready for the same, which prima facie suggests that it is not a case of rape. The medical report does not suggest any injury nor any sign of rape, particularly, in the private part of the victim. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded.

Learned APP submits that the accusation is specific against the petitioner who is named in the FIR.

Considering the fact that the medical report negates



the accusation of rape being committed upon the victim girl, coupled with the victim's statement recorded under Section 164 of the Cr.P.C., the investigation has already been concluded, statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, coupled with the period in custody, let the petitioner above named be released on bail, for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Special Judge (POCSO Act) Gaya in connection with Imamganj P.S. Case No. 158 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (POCSO Act) Gaya including one surety given at the time of provisional bail.



The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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