

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.84755 of 2019**

Arising Out of PS. Case No.-122 Year-2019 Thana- DEWARIA District- Muzaffarpur

MANOJ SAH S/o Mohan Sah R/o village- Saraiya Bazar, P.S.- Saraiya,
District- Muzaffarpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma, Advocate

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

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

8 06-07-2020 Heard learned counsel for the petitioner and Mr. B. N.
Pandey, learned APP for the Sate.

Case diary has been received by learned APP for the
State and he has perused the same.

The petitioner in the present case is seeking regular
bail in connection with Deoriya P.S. Case No. 122 of 2019
registered for the offence under Section 376 of the Indian Penal
Code.

Learned counsel for the petitioner submits that it is a
case of false implication of the petitioner. It is submitted that as
per the first information report, when the victim lady had gone
to pick up firewood at the bank of river, at about 12 Noon, this
petitioner came there, caught hold of her and committed rape
and thereafter, threatened the victim lady but in course of



investigation no independent witness, save and except her own family members and relations who are the hearsay witnesses, has come forward to support the allegations.

It is submitted that the victim lady has got six children and the allegation that the petitioner had tied her hands and forcibly put her down on the earth and then committed rape has not been corroborated from the medical examination report of the victim lady. It is submitted that the medical report does not show any internal or external injury on the body of the informant and she has been found post menopausal lady. According to learned counsel, the petitioner has been falsely implicated in this case because of the village disputes as both are neighbours and the petitioner had objected the informant earlier when she had tried to pluck firewood in the orchard of the petitioner.

Learned APP for the State has, after going through the case diary, submitted that he is himself not satisfied with the kind of materials coming in the case diary and is not convinced with the prosecution story inasmuch as the lady was medically examined after three days, she has been found to be post menopausal and the doctor has opined that no visible injury on her body either external or internal is found.



Learned APP further submits before this Court that there is also deviation in the statement of the victim lady made under Section 161 Cr.p.C. and under Section 164 Cr.P.C. It is also submitted that no independent witness is there in the case diary to support the allegation and the Police had not even seized the sari rather after few days the victim lady went to the Police Station and submitted a sari saying that the same is the cloth which she was wearing at the time of alleged occurrence.

Learned APP submits that the average age of menopausal in India is 46 years, therefore, considering the medical examination report, the age declared by the victim lady in course of her statement seems to be doubtful.

Having regard to the facts and circumstances of the case, the submission of learned counsel for the petitioner and the submission of learned APP for the State, this Court has noticed that the prosecution case is that of tying the hands and mouth of the victim and putting her forcibly down on the earth and then the alleged act but the medical report shows no sign of tying up of hands, forcibly blocking the mouth and/or forcibly putting down her on earth, the occurrence is said to have taken place at 12 Noon but save and except her own family members who were said to be the hearsay witnesses, no witness has come



forward to support the allegation and the submissions of learned APP for the State that even the statement of the victim lady is not consistent, this Court directs release of the petitioner above named on bail in connection with Deoriya P.S. Case No. 122 of 2019 on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of Sri Nayan Kumar, J. M. Ist Class, Muzaffarpur, 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, or 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 during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

This application stands allowed.

(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'.

