

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87188 of 2019

Arising Out of PS. Case No.-416 Year-2019 Thana- SITAMARHI District- Sitamarhi

MD. FAIYAJ @ FAIYAJ Son of Md. Jaheer @ Jaheer Resident of Village -
Rain Mohalla East , P.S.- Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 86819 of 2019

Arising Out of PS. Case No.-416 Year-2019 Thana- SITAMARHI District- Sitamarhi

MD. GULAM RASUL Son of Md. Anwarul Resident of Village- Azad
Chowk, P.S.- Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 87188 of 2019)

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr.Ashraf Ansari

(In CRIMINAL MISCELLANEOUS No. 86819 of 2019)

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr.Ashraf Ansari

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 29-06-2020 The matter has been taken up through virtual court
proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner, Md. Faiyaj @ Faiyaj vide Cr. Misc.
No. 87188 of 2019 and Md. Gulam Rasul, vide Cr. Misc. No.
86819 of 2019, who are languishing in custody since 22.08.2019
and 07.08.2019, respectively, have preferred the present



application for grant of bail in a case registered for the offences punishable under Sections 341, 342 and 376(d)/34 of the IPC.

The prosecution case as per the written report of Manoj Rai, submitted to the S.H.O., Sitamarhi Police Station is to the effect that on 31.07.2019 at about 11.30 P.M., the informant along with his wife and sister-in-law, Kiran Devi was travelling by an auto rickshaw when on the way, they stopped near petroleum dealership, in the meantime, petitioners, Gulam Rasul, Faiyaz and co-accused Ahiya came, when on the request of the sister-in-law, the informant went to bring tea, in the meantime, all the three accused persons including the petitioners took the sister-in-law of the informant to a nearby garage and ravished her, leading to registration of FIR.

It is submitted by learned counsel for the petitioners that the victim in her statements, recorded under Section 161 and 164 Cr. P.C. has not specifically named the petitioners. The victim has also lodged Complaint Case No. 1452 of 2019 against the present informant with allegation that he ravished the victim and made a video and asked the victim to lodge a case with changed her name as Kiran Devi against certain persons, failing which, the informant threatened that he will post the video on facebook. Subsequently, the petitioners



have maliciously been roped in the present case. It is further submitted that the medical report of the victim does not suggest the commission of rape and the victim has been found aged about 18 years. Moreover, co-accused persons, Md. Shadab @ Kale @ Saddam @ Md. Saddam and Md. Shan @ Ehsan, who are not named in the FIR, have been granted bail by different Co-ordinate benches of this Court, vide order dated 28.11.2019 and 28.02.2020 passed in Cr. Misc. Nos. 75964 and 77521 of 2019, respectively.

Learned APP submits that the petitioners are named in the FIR with specific accusation.

Considering the fact that petitioners were not named by the victim in her statements, recorded under Sections 161 and 164 of the Cr. P.C., the medical report completely negates the accusation of rape, coupled with the fact that the investigation has already been concluded, let the petitioners 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 C.J.M., Sitamarhi in connection with Sitamarhi (Mehsaal) P.S. Case No. 416 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) each with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Sitamarhi (Mehsaul) P.S. Case No. 416 of 2019.

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

(Dinesh Kumar Singh, J)

Amrendra/-

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