

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.11661 of 2021**

Arising Out of PS. Case No.-80 Year-2019 Thana- LODIPUR District- Bhagalpur

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ASHOK MANDAL Son of Ganesh Mandal Resident of Village - Gohariyo,
P.S. - Lodhipur, District - Bhagalpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Apurva Kumar, Advocate
For the Opposite Party/s : Ms. Madhuri Lata, APP

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

6 24-08-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Ms. Madhuri Lata, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Lodipur P.S. Case No. 80 of 2019 registered for the offences punishable under Section 376 of the Indian Penal Code. He is in custody since 22.05.2020.

Learned counsel for the petitioner submits that as per prosecution story, the victim girl is aged eighteen years, she claims that on 09.05.2019 at about 9 pm when she had gone to ease out at a distance of 200 meters from her house, this

petitioner came from behind, pointed a pistol on her and took her to his house where in a room he forcibly committed rape on her. He also said that he would give sindoor to her and will keep her as his wife. He kept on committing rape for the whole night. Thereafter in the morning the informant was told to conceal herself in a corner of the house but after hearing the voice of her parents she came out of the house and informed everything to her parents. This was told to all the main persons of the village who advised her to lodge a case. The informant says that she did not do anything with the boy's side but when she started searching out the petitioner, the family members told that he had gone outside.

Learned counsel for the petitioner submits that apparently the case has been lodged to compel the petitioner to marry the victim girl on the strength of the allegations which is highly suspicious. As per F.I.R., for the whole night she was in the house of the petitioner but during the night hours her family members did not go to search her.

Learned counsel further submits that the F.I.R. has been lodged on 21.05.2019 i.e. after about twelve days and the medical examination report of the victim girl does not suggest any sign of rape or injury on her body.

Ms. Madhuri Lata, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but at the same time she has confirmed that the victim is major, the medical report does not suggest any sign of rape and she has further confirmed that in the case diary there is no independent witness on this point that the informant had disclosed these facts to any villager on the alleged date of occurrence.

Considering the above facts and circumstances of the case particularly, that victim is major and the F.I.R. has been lodged after twelve days and in the case diary there is no independent co-villager supporting the prosecution case, this court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Bhagalpur in connection with Lodipur P.S. Case No. 80 of 2019 (G.R. No. 2096 of 2019) subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of

bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that after release on bail, the petitioner shall not come in contact with the victim girl and her family members during trial and violating the same shall invite action towards cancellation of bail.

This application stands disposed of accordingly.

(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'.