

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.14423 of 2021**

Arising Out of PS. Case No.-291 Year-2020 Thana- GAIGHAT District- Muzaffarpur

Ranjan Kumar, S/O Bulki Mahto @ Bulaki Mahto, R/O Village Kanta Shiv
Nagar, P.S. Gaighat, District- Muzaffarpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Hari Kishore Thakur, Advocate
For the Opposite Party/s :	Mr. Parmeshwar Mehta, A.P.P.
For the Informant :	Mr. Sanjay Kumar @ S.K. Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-09-2021 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 Mr. Hari Kishore Thakur, learned counsel for the petitioner, Mr. Sanjay Kumar @ S.K., learned counsel for the informant and Mr. Parmeshwar Mehta, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Gaighat P.S. Case No. 291 of 2020 registered for the offence punishable under Sections 341, 342, 376(AD) of the Indian Penal Code and Section 4 of the POCSO Act, 2012. He is in custody since 23.09.2020.

As per prosecution story, the victim girl aged about 15

years had gone to ease out during evening time to a place known as 'Gacchi' situated behind her house. All of a sudden this petitioner and co-accused Birendra Mahto reached there and on the point of weapon they tied her mouth and ask her to take down her clothes otherwise she would be killed. It is alleged that under threat the victim girl undressed herself and thereafter both the accused committed rape on her.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case only because he happened to be a friend of co-accused Birendra Mahto. Birendra Mahto is a co-villager of the victim girl.

Learned counsel submits that the prosecution story lacks credibility inasmuch as it would appear that on the same day within 12 hours medical examination of the victim was conducted but the Doctor did not find any sign of external injury. All vitals are stable. Hymen was ruptured. No sign of fresh injury, bleeding over hymen or valva. The swab was also examined but no spermatozoa was found. It is, thus, his submission that in case of rape by two persons it is not possible to find the victim in such medical condition.

Learned counsel further submits that there is variation in the statement of the victim girl recorded by learned

Magistrate under Section 164 Cr.P.C. In her statement under Section 164 Cr.P.C. she has made allegation of rape only against her co-villager Birendra Mahto. It is, thus, submitted that while lodging the F.I.R. this petitioner has been falsely implicated.

Learned counsel for the informant as well as Mr. Parmeshwar Mehta, learned A.P.P. for the State have opposed the prayer for regular bail of the petitioner.

Learned counsel for the informant submits that though there are some variations in the statement of the victim girl if her statements are compared but in her statement under Section 164 Cr.P.C. she has alleged that this petitioner was called by co-accused Birendra Mahto and then this petitioner had actively participated in lifting her away to a place where Birendra Mahto had committed rape on her.

Learned counsel submits that at this stage if the petitioner is released on bail, considering that the victim girl is a minor she may be threatened and the trial may be delayed.

Considering the facts and circumstances of the case wherein this Court has noticed that there are variations in the statement of the victim girl but at the same time the active participation of the petitioner has been alleged by the victim in her statement under section 164 Cr.P.C. also. At this stage, this

Court would not be inclined to release the petitioner on bail.

Prayer for bail is, thus, refused.

Let the trial be expedited and all endeavours be made to conclude the trial as early as possible preferably within a period of six months from the date of communication of this order.

The petitioner will be at liberty to renew his prayer for bail if the trial is not concluded within the aforesaid period for no reason attributable to the petitioner.

It is expected that the statement of the victim girl shall be recorded by the learned trial court without any delay and in terms of the scheme of the POCSO Act as early as possible.

The 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'.