

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2220 of 2021**

Arising Out of PS. Case No.-120 Year-2020 Thana- LAXMIPUR District- Jamui

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RAJ KISHOR KUMAR THAKUR, S/o Mahesh Thakur, R/o village- Sujani
Pahari, P.S.- Laxmipur, District- Jamui

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Akash Raj, Advocate

For the Respondent/s : MsUsha Kumari 1, Spl. P.P.

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

6 11-08-2021 Learned counsel for the appellant 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 appellant and Ms. Usha
Kumari No. 1, learned Special P.P. for the State.

Appellant in the present case is seeking to set aside

the order dated 02.02.2021 passed by learned Additional District
and Sessions Judge 1st -cum-Special Judge, Jamui in connection
with Laxmipur P.S. Case No. 120 of 2020 registered for the
offences punishable under Sections 376, 504, 506 and 34 of the
Indian Penal Code and Section 3 (2) (v) and 3(i) (s) of the
Scheduled Castes and Scheduled Tribes Act and Section 4 of
POCSO Act whereby and whereunder his prayer for regular bail

was rejected.

As per prosecution story, while the informant had gone to attend the call of nature in the night, the appellant raped her on the point of knife, he threatened her not to say anything to anyone otherwise she will be killed. The victim girl narrated the incident to her parents and others, thereafter the co-villagers caught the appellant.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case. Learned counsel submits that the statement of the victim girl recorded under Section 164 Cr.P.C. itself it would appear that there had been some affair between the appellant and the victim girl and she wanted to live with this appellant which was allegedly not accepted by the appellant and for that reason the present case has been lodged.

Learned counsel further submits that the victim girl has been assessed aged between 19-20 years by the medical board and in her medical examination no sign of rape has been found. It is his further submission that the falsity of the allegation would be apparent on the face of the fact that in the F.I.R. the victim girl has alleged that when she started weeping, the villagers came there and caught hold of this appellant but in

course of investigation not a single co-villager has come forward to support this part of the allegation.

Ms. Usha Kumari No. 1, learned Special P.P. for the State has opposed the prayer for regular bail of the appellant. Learned Special P.P. for the State has confirmed on reading paragraph '5' of the case diary that the father of the victim girl has stated that when he did not find his daughter in the house during the night hours, he along with his wife went in search of his daughter to the house of his neighbour but there also she was not found then he was moving on the northern side of the village and found that his daughter was coming on the road and on asking she disclosed that she had gone to meet this appellant who had given her a telephonic call and then on allurement of marriage he had established physical relationship. The parents of the victim, however, did not see the appellant.

Considering the facts and circumstances of the case, the age of the victim girl and her statement to her father that she had gone to meet this appellant and she was found coming on the road of the village, none of the co-villager has come forward to support the allegation in the F.I.R. that they had caught this appellant and then the medical report not supporting the prosecution case of rape, the appellant having remained in

custody since 23.07.2020 and is said to be a student, in the totality of the circumstances, this Court sets aside the impugned order and directs release of the appellant on bail, let the appellant above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1st -cum-Special Judge, Jamui in connection with Laxmipur P.S. Case No. 120 of 2020, subject to the condition as laid down under Section 437 (3) 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, of 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 the court below shall verify the criminal antecedent of the appellant and in case at any stage

it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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 appellant shall not come in contact with the informant/victim and her family during trial and violation of this condition shall invite action towards cancellation of bail.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.