

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30073 of 2020

Arising Out of PS. Case No.-138 Year-2020 Thana- UJIYARPUR District- Samastipur

VISHUNI DAS S/o Late Mahadeo Das @ Nannu Mahto Resident of Village-
Aninagar (Loirahan), P.S.-Valigaun (Patepur), District-Vaishali. At present
Vishnu Das W/o Late Mahadeo Das, Resident of Village-Rashapur Paithan
Chhatoina, P.S.-Samastipur mufasil, District-Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amar Nath Jha, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 09-02-2021 Heard Mr. Amar Nath Jha, learned counsel for the

petitioner and Mr. Harendra Prasad, learned Additional Public

Prosecutor appearing for the State.

Petitioner seeks regular bail in connection with
Ujiarpur P.S. Case No. 138 of 2020 registered for the offence
punishable under Sections 376(A), 376(B) of the Indian Penal
Code 1860 and Sections 4 and 6 of POCSO Act.

The allegation as per the First Information Report is
that the petitioner has committed rape upon the minor daughter
of the informant.

Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in this case with ulterior
motive inasmuch as petitioner is the *Mahant* of the *Kabir Math*



and the land of the *Math* is being encroached by the encroachers and upon objection being made by the petitioner and his *sewait*, they have falsely been implicated in the criminal offence and rape cases. Learned counsel further submits that earlier also the allegation of rape was levelled against the disciple (*chela*) of the petitioner by the wife of cousin of present informant which would be evident from genealogical table attached at page 21 of the brief bearing Ujiarpur P.S. Case No.101 of 2014, in which, disciple (*chela*) of the petitioner was made accused and was granted anticipatory bail by this Court. Learned counsel also submits that the date of occurrence has been alleged on 20.05.2020 and on the same date, the victim girl was medically examined and from perusal of the medical report, it would be evident that the Doctor has not found any sign of rape upon the victim. Learned counsel next submits that on the same date, the petitioner was arrested, but he was not medically examined in terms of the mandatory provisions of Section 53A of the Cr. P.C. Learned counsel referring to page 20 of the brief submits that the land of *Math* was forcibly encroached by Ramprit Singh and Mahadev Singh, for which, the petitioner had submitted an application before the Circle Officer, Ujiyarpur, Samastipur, on 14.05.2020 i.e. about a week before the alleged date of



occurrence. Learned counsel next submits that from genealogical table, it would be evident that Ramprit Singh is cousin uncle of the present informant and Mahadev Singh is father of the informant. The petitioner is said to be in custody since 21.5.2020 and he has got no criminal antecedent.

On the other hand, learned counsel for the State referring to the case diary submits that it is correct that the victim was medically examined on the same day of the occurrence and no sign of rape was found on the person of the victim. Learned counsel further submits that the petitioner was arrested on the same day of the occurrence, but was not medically examined under Section 53A of the Cr. P.C., however, the victim girl has supported the occurrence in her statement recorded under Section 164 Cr. P.C.

Having regard to the submissions made by the parties and taking into consideration the materials on record, the fact that medical report of the victim does not support the prosecution story and there appears to be the land dispute between the family of the informant and the *Math* as well as the petitioner is in custody since 21.5.2020, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be



released on regular bail on furnishing bail bonds of Rs.10,000/-
(Ten thousand) with two sureties of the like amount each to the
satisfaction of learned 1st Additional Sessions Judge-cum-
Special Judge, Samastipur, in connection with Ujiarpur P.S.
Case No. 138 of 2020.

It is made clear that at the time of furnishing bail
bonds all the parties shall follow the guidelines regarding social
distancing.

(Anil Kumar Sinha, J)

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