

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.35465 of 2020**

Arising Out of PS. Case No.-88 Year-2012 Thana- PALASI District- Araria

Mayanand Yadav @ Nepali Son of Naseeb Lal Yadav @ Nasib Lal Yadav
Resident of Village-Bangama, P.S.-Palasi, Dist-Araria.

... .. Petitioner

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Advocate

For the Opposite Party/s : Mr.Jitendra Kumar Singh, APP

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

10 23-08-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Palasi P.S. Case No. 88 of 2012 registered
for the offence under Section 366/34 of the Indian Penal Code.

As per the prosecution story, the petitioner along with
his associates entered into the house of the informant who is
himself a Chowkidar. This petitioner and his associates
allegedly took away the wife of the informant on giving her
allurement of marriage, the allegation is that they had forcibly
taken away the wife of the informant on 29.08.2012. The
accused persons had threatened the informant and this has been
said to be the reason for filing of the First Information Report on
11.09.2012 i.e. after about 14 days.

Learned counsel submits that the victim lady is major and she has been later on recovered from a Tea Shop near the Bus Stand which is situated beside the house of the informant. The recovery is on 24.09.2012. After her recovery, she has alleged that the petitioner along with his associates had forcibly taken her away and on the way other three accused left the petitioner and the victim lady, thereafter the petitioner took her to Ludhiyana where he was committing rape on her. She has further alleged that later on this petitioner dropped her at Araria.

Learned counsel submits that the statement of the victim lady is highly suspicious and lacks credibility inasmuch as the manner of occurrence as alleged is not possible unless she participates in the same as an accomplice.

Learned counsel submits that the medical board has found the age of the victim lady between 19-22 years. No injury has been found on any part of her body including the private parts. A large number of witnesses have stated before police that while the informant was himself in judicial custody the extra marital affair developed between the wife of the informant and this petitioner and she herself left the house of the informant on her own sweet-will.

It is lastly submitted that the petitioner was in custody

in connection with other cases since 03.11.2017 but has been remanded in this case on 16.11.2019. He has got 10 criminal antecedents but in all the cases the petitioner has been granted bail by this Hon'ble Court or by the learned court below itself or has been acquitted after facing trial.

On the other hand, learned A.P.P. for the State has opposed the prayer for bail of the petitioner. It is submitted that the victim lady has made allegations against the petitioner which is serious in nature.

This Court had called for a report from the learned trial court as to the present stage of the trial and the time likely to be taken in conclusion thereof. On 08.03.2021, a report has been sent by learned A.C.J.M.-I, Araria saying that the record has been committed to the Court of Sessions vide order dated 02.03.2021 when the accused was produced before the court through Video Conferencing. A further report has been received from the learned Additional District & Sessions Judge - 5th Araria from which it appears that the record is kept at the stage of evidence after framing of charge.

Considering the facts and circumstances of the case, when this Court has noticed that the F.I.R. in the present case has been lodged about 14 days after the alleged occurrence and

that gains importance because the informant himself is a Chowkidar, the victim lady is major, witnesses have stated in the case diary about her developing extra marital relationship with the petitioner when her husband was in jail and then her recovery from a Tea Shop near the Bus Stand which is situated by the house of the informant on 24.09.2012, and in these circumstances petitioner having remained in jail after he was taken on remand in this case on 16.11.2019, though he was in jail in connection with the other cases since 03.11.2017, he has already been granted bail in all the cases against him as stated in paragraph '3' and the trial court's report says that the evidence is yet to begin and the petitioner has been provided with legal aid through the panel lawyer of District Legal Services Authority, 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 A.C.J.M., Araria in connection with Palasi P.S. Case No. 88 of 2012, 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.

The petitioner shall attend the trial court on each and every date fixed in the matter. Two consecutive defaults in putting appearance shall invite action towards cancellation of bail of the petitioner.

The petitioner shall not contact the informant and/or the victim lady and in case any such attempt is made it will be open to them to file an appropriate application in the learned court below. If such an application is filed the learned court below shall consider the same in accordance with law.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

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'.