

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38922 of 2020**

Arising Out of PS. Case No.-8 Year-2020 Thana- NAUGACHIA District- Bhagalpur

=====

BUDHAN MANDAL S/o Late Dipo Mandal R/o Village- Telghi Tola, P.S-
Bihpur, District- Bhagalpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Yadav, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

=====

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

6 26-07-2021 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 learned

A.P.P. for the State.

Petitioner in the present case is seeking regular bail in

connection with Naugachia (Mahila) P.S. Case No. 08 of 2020

registered for the offences punishable under Sections

341/323/376 of the Indian Penal Code. He is in custody since

25.04.2020.

As per the prosecution story the informant after

quarreling with her husband was going to her parents house and

on her way she traveled with an unknown person on his

motorcycle and reached Bihpur Chowk at about 11.00 am. There she met another unknown person (petitioner) who called her as sister and offered to take her to parents house and they both kept on wandering on bicycle. At about 6.30 pm the petitioner took her to a mango orchard and established physical relationship with her, assaulted her and when he was bringing her to Bihpur Chowk she saw two persons and narrated entire story to them thereafter they caught the petitioner and handed over to the police.

Learned counsel for the petitioner submits that bare reading of the First Information Report and the subsequent statement under Section 164 Cr. P.C. would show that mere statement of the victim lady who is aged about twenty years cannot be given much credibility. As per her own statement she has left her house after having quarrel with her husband thereafter she left with the motorcyclist on his motorcycle, he was an unknown person still she chose to go with him and reached Bihpur. She alleges that at Bihpur she met another person who called her sister and she went with him on his bicycle and from 11.00 am to 6.00 pm she was moving with him. In the evening, it is alleged that the said cyclist had made physical relationship with her and assaulted her and thereafter

he again brought her to Bihpur Chowk where she found two boys on a motorcycle whom she told about this occurrence and then both boys caught hold of the bicyclist (petitioner) and handed over him to police but in her Section 164 Cr.P.C. statement she says that she disclosed this to the villagers and then the villagers caught hold of the said person (petitioner) and handed over to the police.

Learned counsel further submits that it is difficult to understand how a lady can keep on moving on bicycle with an unknown person from 11.00 am to 6.00 pm. The medical examination report finds no injury on her body and no sign of rape has been found. The police has not collected any material and no F.S.L. report is in this case to corroborate the statement of the victim lady.

Learned A.P.P. for the State has though opposed the prayer for bail but on query made by this Court, learned A.P.P. informs that in paragraph '10' the I.O. has recorded about place of occurrence but nothing has been found there. It is admitted that the medical examination report does not mention about any sign of rape and further that the I.O. has not collected clothes or any other material which may be examined by F.S.L.

Considering the facts and circumstances of the case,

the submissions noted hereinabove, the victim lady is major and taking note of her shifting stands and her statement that she was herself moving with the petitioner on his bicycle from 11.00 am in morning to 6.00 pm, the medical examination report not suggesting commission of rape, in the nature of the materials before this Court, let the petitioner above named be released 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 S.D.J.M., Naugachia, District-Bhagalpur in connection with Naugachia (Mahila) P.S. Case No. 08 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 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.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

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'.