

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38728 of 2020**

Arising Out of PS. Case No.-59 Year-2020 Thana- CHHAURADANO District- East
Champaran

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MOHTAB ANSARI Son of Anjur Ansari Resident of Village - Ward No.6,
Budhwaha, P.S.- Choradaano, Distt.- East Champaran, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj, Adv.

For the Opposite Party/s : Mr. Tarun Prasad Mandal, APP

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

4 30-06-2021 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 Chauradano P.S. Case No.59 of 2020 registered

for the offences punishable under Sections 323, 376, 504 and 506

of the Indian Penal Code and Section 4 of the POCSO Act.

Learned counsel for the petitioner submits that on

perusal of the First Information Report which has been lodged by

the mother of the victim girl it would appear that she came to

know about the relationship between her daughter and this

petitioner ten days back. According to her, the victim girl was in



relationship with this petitioner for last about three years and he was in touch with the victim girl with mobile no.9097408889. She has further stated in the First Information Report that she disclosed this fact to her husband and went to the father of the petitioner and asked for the marriage between the petitioner and the victim girl. It is alleged that the father of the petitioner abused the informant and her husband and asked them to forget about any chance of marriage between the petitioner and the victim girl. It is then stated that on 10.02.2020 matter was brought before the panches but in the presence of panches accused nos.3, 4, 5 and 6 abused the informant's side and assaulted her husband.

Learned counsel submits that it is out and out a case of false implication of the petitioner who is a neighbour of the informant. Informant wanted to fix marriage between the petitioner and the victim girl but the marriage of the petitioner was arranged with another lady in the month of February, 2020 and only thereafter the present allegation has been made. In this connection, learned counsel submits that the independent witnesses have come forward to say this fact in the case diary.

Learned counsel further submits that falsity of the allegations may also be judged from the fact that in course of investigation police has not found any mobile connection between the petitioner and the victim girl and even the CDR of the mobile



has not been come in course of investigation.

Learned counsel further submits that the medical examination report of the victim girl says 'no evidence of any physical relationship.' It is submitted that no doubt the victim girl has been found aged between 15 to 16 years and she claimed before the doctors that she was in love with this petitioner and had maintained sexual relationship but the fact remains that medical examination report has not found any sign of rape.

Learned counsel further points out that in her 164 Cr.P.C. statement the victim girl has made bald allegations and the immediate concern of the victim girl and her family may be seen from the fact that they were looking to arrange the marriage between the petitioner and the victim girl which was denied by the petitioner.

Learned counsel further submits that independent witnesses also stated in paragraph '74' and '75' of the case diary that the mother of the victim girl started telling about the relationship between the petitioner and the victim girl only after marriage of the petitioner was fixed. It is also the submission of learned counsel for the petitioner that in similar manner the informant's family had forced marriage of one lady from their family with a close relative of the petitioner and being emboldened by such act the present FIR has been lodged. In similar manner the



niece of the informant was married to the petitioner's cousin. This fact has been stated in paragraph '9' of the petition. It is, thus, his submission that the allegations are nothing but a false and concocted story and there is no independent material either in form of any witness in the case diary or any other material to instill confidence in the prosecution case.

It is also pointed out that the petitioner is in custody since 28.06.2020, investigation against him is complete but the trial is not likely to be concluded in near future. He is a young person aged about 21 years old and has got a daughter from his marriage, therefore at this stage he requires to make his career with further study and his future prospects are at stake because of his confinement.

Mr. Tarun Prasad Mandal, learned APP for the State has though opposed the prayer for regular bail of the petitioner, but he has read out the statements made in paragraph '74' and '75' of the case diary where the statements of independent witnesses have been recorded. This Court has been informed that in the case diary there is no investigation on the point of telephone call and I.O. has not found any telephonic connection between the petitioner and the informant's daughter. No other independent witness has been pointed out to this Court.

Having regard to the facts and circumstances of the



case, considering the entirety of the circumstances where this Court has noticed that the independent witnesses have come forward to say that the informant started talking about the relationship between the petitioner and her daughter only after the marriage of the petitioner was fixed in the month of February, 2020 with another lady, the medical examination report does not suggest any sign of rape and no independent witness has come forward to support the prosecution story, the I.O. has not found any mobile connection between the petitioner and the victim girl and petitioner has remained in jail for over one year, investigation against him is complete but the trial is not likely to be concluded in near future, this Court directs that the petitioner 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 Special Judge, POCSO Act, Motihari in connection with Chauradano P.S. Case No.59/2020, 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.

(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'.

