

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.316 of 2021**

Arising Out of PS. Case No.-117 Year-2020 Thana- MUNGER MUFFASIL District- Munger

SUNDAR KUMAR @ SANJIT KUMAR S/o Mithilesh Kumar Singh R/o
village- Bindwara, P.S.- Kashim Bazar, District- Munger

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
	:	Mr. Ajit Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Nazir Ansari, APP

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

5 15-07-2021 Learned senior 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 senior counsel for the petitioner and Shri Nazir Ansari, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Munger Muffasil P.S. Case No. 117 of 2020 (G.R. No. 804 of 2020) registered for the offences punishable under Section 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act. He is in custody since 16.05.2020.

Learned senior counsel for the petitioner submits that as per the F.I.R. victim girl had gone to meet the call of nature at



about 3.00 am on 14.05.2020. It is alleged that the petitioner who was staying in the house of his maternal uncle came from behind and by pressing her mouth pulled her to a lonely place and committed rape on her. He threatened the victim girl and asked her not to go to her house and to reach Baliya station and promised her that he will come there after taking some money from his house. She was told that the petitioner will be living with her separately. After saying this, the petitioner left for his maternal uncle's house. The victim girl alleged that thereafter she came back to her house and told the story to her mother.

Learned senior counsel submits that the F.I.R. has been lodged on 15.05.2020 at about 12.10 pm. In a case of this nature the delay in lodging of the F.I.R. is indicating towards some concoction of the story.

Learned senior counsel points out that according to the victim girl the petitioner has pressed her mouth and pulled her to a lonely place where he committed rape on her but said lonely place has not been disclosed. Her statement under Section 161 Cr. P.C. shows that when she had gone to the water pump then alleged occurrence took place. It is his submission that there are variance in the statement of the victim girl.

Learned senior counsel submits that the victim girl



has not produced her clothes to the I.O., the medical examination report disclosed that the victim girl is sixteen years old but no smear or laceration, no injury external or on private parts of the body have been found. The vaginal swab was sent to the Sadar Hospital, Munger for its pathological test but the report says that spermatozoa-motile-not found, No. motile-not found and according to the clinical and pathological finding rape on the victim girl could not be confirmed.

Relying upon the medical examination report, learned senior counsel submits that it is highly improbable that a victim girl who had been allegedly raped would not have any sign of rape, if examined within twenty-four hours of the alleged occurrence and again it is not the natural conduct that I.O. will not be provided with the clothes which the victim girl was wearing at the time of commission of rape.

Learned senior counsel submits that this petitioner is an employee in East Central Railway, Sonpur Division at Samastipur in Engineering Department, he has been promoted as Junior Engineer and had passed his Master Degree. The victim girl is so-called student of seventh class. In fact parents of the victim girl wanted to arrange a marriage between the petitioner and the victim girl, the petitioner had gone to his



maternal uncle's place which is in the same village where the family of the victim resides, the marriage proposal was, however, not accepted by the family of the petitioner whereafter the present case has been concocted.

In this case the charge-sheet has already been submitted by police and it is the submission that if released on bail, the petitioner will abide by such terms and conditions which may be imposed upon him.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner. His main contention is that the victim girl is aged about sixteen years only. On the specific query made by this Court in virtual proceeding as to whether in the case diary there is any material showing seizure of the clothes or any blood-stained clothes with any suspicious mark, the learned A.P.P. submits that the I.O. has not seized any cloth much less any blood-stained. Further, learned A.P.P. submits that there is no independent witness in the case diary of the alleged occurrence, however the family members of the victim girl have supported the allegation.

Considering the facts and circumstances of the case and keeping in mind the fact that the victim girl is sixteen years old only, this Court has noticed the date of alleged occurrence as



14.05.2020 at 3.00 am the victim girl says that she came to her house after the alleged occurrence but the F.I.R. has been lodged with a delay of at least one and half day, the clothes of the victim has not been provided to the I.O. for any F.S.L. report, the medical examination report has not found any smear or laceration and no any other sign of rape has been found by the medical board, the pathological report is also not giving any significant result, in these circumstances this Court is inclined to accept the submissions of learned senior counsel for the petitioner at this stage that false implication of the petitioner who is an employee of railway cannot be ruled out, the petitioner has remained in jail for more than a year, investigation against him is complete but the trial is not likely to take place in near future, the petitioner is also ready to abide by such terms and conditions which may be imposed upon him to secure his presence in course of trial, in these circumstances, this Court directs release of the petitioner 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 Additional District Judge-VI-cum-Exclusive Special Court (POCSO Act), Munger in connection with Munger Muffasil P.S. Case No. 117 of 2020 (G.R. No. 804



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.

And further condition that until conclusion of trial the petitioner shall not take any attempt to go nearby the victim girl or her family members and he would attend the trial on each and



every date fixed in the matter. Two consecutive defaults in putting appearance in course of trial shall lead to cancellation of bail of the petitioner.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

arvind/-

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'.

