

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.79 of 2021**

Arising Out of PS. Case No.-23 Year-2020 Thana- AGRER District- Rohtas

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AJMER ANSARI, Son of Ali Hasan @ Alihasan Ansari, Resident of Village -
Nyay, P.S.- Agarar, Distt.- Rohtas.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Y.C.Verma, Sr. Advocate

For the Respondent/s : Mrs. Usha Kumari 1, Special P.P.

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

6 07-07-2021 Learned Senior Counsel for the appellant

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 appellant and

Mrs. Usha Kumari 1, learned Special P.P. for the State.

Appellant in the present case is seeking to set aside

the order dated 09.09.2020 passed by learned 1st Additional

District and Sessions Judge, Sasaram, Rohtas in connection with

Agarar P.S. Case No. 23 of 2020 registered for the offences

punishable under Section 376 of the Indian Penal Code and

Section 3(i)(iii)(r)(s) of the Scheduled Castes and Scheduled

Tribes Act whereby and whereunder his prayer for regular bail

was rejected.



Learned Senior Counsel for the appellant submits that it is out and out a case of false implication of the appellant because of the village enmity. The allegation against the appellant is that he had entered in the house of the victim lady at about 1.00 in night while she was sleeping with her children and other members of the family were sleeping in the house, the appellant committed rape with her by threatening her on the point of knife.

Learned Senior Counsel submits that in the allegations made in the fardbeyan the victim alleges that the other family members were sleeping on the roof of the house and she was in her room with her children. She alleges that the accused was caught but then he was able to flee away from the clutch of the family members. It is his submission that the allegations are simply not believable inasmuch as the appellant who was allegedly inside the room and was caught by the family members of the victim lady cannot flee away from their hands.

The further submission of learned Senior Counsel is that the victim lady has lodged the present case only because her family was unable to repay the loan which was taken from the family of this appellant.



It is his further submission that the medical examination of the victim lady was conducted after ten days of the alleged occurrence. No external or internal injury has been found upon her body and no sign of rape was detected.

It is submitted that the I.O. has not seized any cloth of the victim lady suggesting any sign of rape upon her.

Mrs. Usha Kumari 1, learned Special P.P. for the State has though opposed the prayer for bail of the appellant but states that in the case diary no material has come showing that the I.O. has seized any cloth of the victim lady suggesting commission of rape and she further admits that the victim lady was examined ten days after the alleged occurrence, therefore, according to her, no sign of rape may be found after ten days, this appellant is in custody since 25.05.2020, investigation against him is complete but the trial is not likely to take place in near future, there is no submission of the State that release of the appellant at this stage is in any way likely to result in tampering with the evidence or interfering with the course of trial, considering that prima-facie neither any material in form of cloth of the victim lady has been found by the I.O. nor the medical examination report suggest commission of rape, save and except the allegation in the F.I.R. at this stage there is no



other material, this Court sets aside the impugned order and directs release of the appellant on bail, let the appellant 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 1st Additional District and Sessions Judge, Sasaram, Rohtas in connection with Agarar P.S. Case No. 23 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 appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of



bail bond of the appellant. 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)

vats/-

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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'.

