

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13033 of 2021**

Arising Out of PS. Case No.-261 Year-2020 Thana- TARAIIYA District- Saran

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RUPESH KUMAR SINGH Son of Awadhesh Singh @ Audesh Singh
Resident of Village - Dih Chhapiya, P.s.- Taraiya, Dist.- Sharan at Chapra.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Anish Chandra, Advocate

For the Opposite Party/s : Mr.Mithilesh Kumar Khare, APP

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

3 27-08-2021 Heard learned counsel for the petitioner and Mr.
Mithilesh Kumar Khare, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Taraiya P.S. Case No. 261/2020 registered
for the offences punishable under Section 376(D) of the Indian
Penal Code read with Section 67 of the I.T. Act. He is in judicial
custody since 17.08.2020. Petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that as per
the prosecution story, when the victim lady was returning after
purchasing medicine on 17.07.2020 at about 5:30 P.M. from
Taraiya market, as soon as she reached near Baital Baba Peepal
tree, two motorcycle borne persons sitting two persons on each
reached there and all the four persons came in front of her and
after putting a Gamcha (a piece of cloth) on her mouth they took

her to a lonely place where the informant identified the four named accused persons and at this stage, in the F.I.R. she mentions about four unknown persons of village Chhapiya Dih. As per allegation they committed rape on her one by one and one of them was making video of the occurrence and made the said video viral on the Whatsapp and Facebook.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner and there is neither any direct material nor any indirect material to connect him with the present case.

Learned counsel submits that in course of investigation not a single witness has come to say that he had seen the victim being forcibly taken away by four accused persons on two motorcycles. The occurrence has taken place during summer days at 5:30 P.M. from a market area. Police has not seized any medicine from the place either from where she was forcibly taken away or from the place she was allegedly raped.

Learned counsel further submits that according to the informant four named and four unnamed persons had committed rape on her one after one on 17.07.2020 and she returned her house thereafter with an unknown person and told the story to

her mother who went to the police station on the next day, but it would appear from the F.I.R. that the police was informed regarding the alleged occurrence on 22.07.2020 at 5:15 P.M. i.e. after five days.

Learned counsel further submits that in course of investigation police has not found any mobile phone from the possession of this petitioner or any other accused and no video has been found either on Whatsapp or Facebook.

Learned counsel further submits that the investigating agency has not investigated as to the tower location of the mobile phone of the petitioner and accused persons with the area where the alleged occurrence of taking away the victim girl or committing rape on her has been alleged.

Lastly it is submitted that the victim is a major lady aged about 19 years as have been found in the medical examination report and the doctors have not found any sign of rape on her body. No injury has been found on her body. No cloth of the victim lady has been provided to the Investigating Officer and there is no Forensic Science Laboratory report on this.

Mr. Mithilesh Kumar Khare, learned A.P.P. for the State has no doubt opposed the prayer for regular bail of the

petitioner but at the same time while going through the case diary, on each and every issue which has been raised by learned counsel for the petitioner as has been mentioned by this Court hereinabove, learned A.P.P. is unable to controvert the submissions of learned counsel for the petitioner.

Learned A.P.P. confirms that the victim has been found major and the medical examination report does not suggest any sign of rape on her. No cloth of the victim has been taken by the Investigating officer and there is no witness of forcibly lifting away the victim lady from the market area.

Considering the facts and circumstances of the case, no doubt the allegation in the First Information Report is serious but the Court is constrained to record that in the nature of the materials placed before it wherein none of the submissions of learned counsel for the petitioner could be controverted by learned A.P.P. for the State, this Court has to direct 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.-1st, Saran at Chapra, in connection with Taraiya P.S. Case No. 261/2020, 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.

(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'.