

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8828 of 2021**

Arising Out of PS. Case No.-10 Year-2020 Thana- ANTICHAK District- Bhagalpur

Injamamul Haque Son of Md. Murshid Resident of Village - Birbanna, P.S. -
Antichak, Distirct - Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Prakash Mahto, Advocate
For the Opposite Party/s	:	Mr. Akhileshwar Dayal, APP
For the Informant	:	Mr. Rajive Ranjan Singh, Advocate

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

4 12-08-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case is seeking regular bail in connection with Antichak P.S. Case No. 10 of 2020 registered for the offences punishable under Sections 341, 323, 376 and 506 of the Indian Penal Code. He is in custody since 1.7.2020.

Learned counsel for the petitioner submits that the petitioner is a co-villager of the informant, aged about 19 years and has been falsely implicated in this case when his father refused the proposal of marriage brought by the father of the informant.

Learned counsel submits that the allegation is that of commission of rape on 29.2.2020 at about 8 p.m. when the mother of the informant had gone to the house of the neighbor. It is alleged that this petitioner had forcibly put a piece of cloth in the mouth of the informant and made forcible physical connections with her but in course of investigation neither the said cloth which were allegedly put in the mouth of the informant was produced before the I.O. nor the I.O has been provided with the clothes which the informant was wearing at the time of the alleged occurrence. Moreover, the FIR has been lodged on 5.3.2020 that is after about six days of the alleged occurrence even though the informant discloses that her mother had come there and after pushing her the petitioner had fled away.

Learned counsel further submits that the statement of the informant that there was delay in submitting application because of village panchayat is also not substantiated in the case diary, no witness has come to say that any village panchayat was held in this regard and anybody had participated in the said panchayat.

Learned counsel for the petitioner rather submits that there is an independent witness in the case diary in Paragraph-70 of the case diary who says that prior to the date of alleged occurrence the father of the girl had approached to the father of the boy for marriage which was not accepted and thereafter the father of the girl wanted to marry his daughter with some other boy for which some money was demanded from the father of the boy (petitioner) which could not be

provided by him.

It is submitted that in the facts and circumstances even the medical examination report does not suggest any injury on the body of the victim girl and no sign of rape has been found upon her.

Learned counsel for the informant has opposed the prayer for bail of the petitioner and submits that the victim was minor and as such the petitioner does not deserve privilege of bail. He is however unable to point out to this Court any material in the case diary showing that any village panchayat was held in this matter and that delayed the lodgment of the FIR.

Learned APP for the State has gone through the case diary and has confirmed to this Court that in Paragraph-70 of the case diary an independent witness has stated that prior to the alleged date of occurrence the father of the victim girl had approached the father of the boy for marriage which had not materialized. The medical examination report does not support the prosecution case and the I.O. has not found any piece of cloth or the clothes which were worn by the informant at the time of alleged occurrence and no such material exhibit has been sent to the FSL.

Considering the facts and circumstances of the case, in the nature of the case where the allegations are though serious but the materials placed before this Court are such that there is a delay in lodgment of the FIR and no plausible reason is mentioned in this regard in the case diary, the statement of the independent witness as

noted herein above, the medical examination report not suggesting any sign of rape and the I.O. is not getting any piece of cloth which had been allegedly put in the mouth of the informant or the clothes which the informant was wearing at the time of alleged occurrence, the materials suggesting that prior to the occurrence father of the victim girl had approached the father of the petitioner for marriage which had not materialized, this Court directs release of the petitioner on bail on furnishing bail bonds 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)-cum-Addl. District & Sessions Judge, VII Bhagalpur in connection with POCSO Case No. 93 of 2020 arising out of Antichak P.S. Case No. 10 of 2020, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

The application stands allowed.

(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'.