

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16635 of 2021**

Arising Out of PS. Case No.-437 Year-2019 Thana- LAXMIPUR District- Jamui

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AWADH SAW @ AWADH KISHORE SAW Son of Late Asho Saw Resident
of Village- Sewa, P.S.- Gidhaur, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 21-01-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For
Orders” under the orders of Hon’ble the Chief Justice.

Learned counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

Heard learned counsel for the petitioner and the State
through virtual mode.

Counsel for the petitioner submits that inadvertently
in the first paragraph and prayer portion of the main application,
“*Gidhour P.S. Case No. 437 of 2019*” has wrongly been typed
in place of “*Laxmipur P.S. Case No. 437 of 2019*”.

Accordingly, “*Gidhour P.S. Case No. 437 of 2019*”



mentioned in the first paragraph and prayer portion of the main application be read as ***“Laxmipur P.S. Case No. 437 of 2019”***

The petitioner is apprehending his arrest in Laxmipur P.S. Case No. 437 of 2019 registered under Sections 366A/376 of the Indian Penal Code and Section-4 of POCSO Act.

Allegedly, while the informant was returning from Bank of India, Mini Branch, Gidhaur, the accused Rikku Kumar and Awadh Sah forcefully abducted her and took her on a Bolero vehicle to Kakanchor. The said Bolero was being driven by the co-accused. It is further alleged that the informant was raped for three days by co-accused Rikku Kumar.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has been falsely implicated in the present case. The allegation of commission of rape is alleged against co-accused Rikku Kumar. So far the petitioner is concerned, after investigation, the police submitted final form against the petitioner. The court below differed with the police report and took cognizance against the petitioner also. It has further been submitted that the informant in her statement recorded under Section 164 Cr.P.C. has tried to develop the



prosecution case. There is contradiction in her statement made in the FIR and the statement recorded u/S 164 Cr.P.C.. Hence her statement cannot be relied upon.

On behalf of the State, it is submitted that the petitioner is named in the Complaint Case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Chief Judicial Magistrate, Jamui in connection with Laxmipur P.S. Case No. 437 of 2019 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall



furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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