

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18303 of 2021**

Arising Out of PS. Case No.-36 Year-2020 Thana- MAHILA PS District- Jamui

Md. Chand Ansari, Male, aged about 22 years, Son Of Rajjak Ansari, R/O -
Noniyatari, P.S.- Chandramandih, District- Jamui.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner	:	M/S. Ajay Kumar Thakur and Rajesh Kumar Sinha, Advocates
For the Opposite Party	:	Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 07-02-2022 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.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

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

The petitioner is apprehending his arrest in connection
with Jamui Mahila P.S. Case No. 36/20 for the offence
registered under Sections 493/376 of the I.P.C. and Section 4 of
the POCSO Act.



The prosecution story, in brief, is that the informant is in a business of manufacturing *Bidi*. She used to go to the house of Muslim Ansari for selling the same. While on the way, she was molested by Chand Ansari (petitioner). He promised to marry her. The informant was induced about seven months prior to the lodging of the F.I.R. and was raped by the accused Chand Ansari (petitioner). Thereafter, he took some photographs and started blackmailing her. Thereafter, he regularly established physical relationship with the informant. Finally, he refused to marry her. Due to shame and fear she did not report the matter earlier.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. On the pretext of marriage, physical relationship is alleged to have been made between the parties. The said relationship was a consensual relationship. By way of supplementary affidavit, the medical examination report of the victim has been brought on record. As per the medical examination report, her age is 17-18 years. In the said circumstances, provisions of POCSO Act will not be attracted in



the present case. Further from perusal of the medical examination report of the victim, it transpires that no substantive evidence in respect of commission of rape has been indicated by the Medical Officer. The said medical examination report is Annexure-4 to the supplementary affidavit. It has further been submitted that three days prior to the institution of the present case, a case was instituted by the mother of this petitioner against the father of the informant of the present case. The present case is nothing but a counter blast to the earlier case instituted by the mother of the informant. The said case is Annexure-2 to the present bail application.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R./ complaint case.

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, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of the learned Additional Sessions Judge-Ist, Jamui, in connection with Jamui Mahila P.S. Case No. 36/2020, 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.

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(Sudhir Singh, J)

