

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67574 of 2021

Arising Out of PS. Case No.-376 Year-2021 Thana- WAJIRGANJ District- Gaya

Chandrika Yadav Son of Basudev Yadav Resident of Village - Ichua, Police
Station - Wazirganj, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Asgher Najmi, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 06-07-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Wazirganj
P.S. Case No. 376 of 2021 registered for the offence under
Section 376 of Indian Penal Code.

The accused/petitioner is named in the F.I.R. and is in
custody since 18.08.2021.

The allegation against the petitioner is to rape upon
the wife of the informant.

Learned counsel appearing on behalf of the petitioner
submitted that, admittedly, from the F.I.R., the occurrence of
rape was also committed earlier, for which no complain was



made. It is submitted that, though, victim, who is claimed to be a person of less understanding due to mental disturbance, but it has not been surfaced as unable to record her statement, during the course of investigation. It is further submitted that the medical report also suggest, that there is no recent sign of sexual intercourse, which further creates a doubt, as regard to allegation of rape. It is also submitted that present implication is false, in the background of local village issues. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence,

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded that the statement of victim is not recorded during the course of investigation either under Section 161 or Section 164 of Cr.P.C.

Considering the facts and circumstances as mentioned above, as victim has not been examined during the course of investigation coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Wazirganj P.S. Case No. 376 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Additional Chief Judicial Magistrate- 1st,
Gaya, subject to the following conditions:

“(i) Accused/Petitioner shall
cooperate in the trial and shall be physically
present on each and every date before the
Trial Court till conclusion of the trial and
exemption from physical appearance be
allowed by the Trial Court, only on medical
ground of the petitioner, duly supported by
the documents.

(ii) That one of the bailors shall be
Vifiya Devi, who is the aunty of the
petitioner and deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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