

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I CUM SPECIAL  
COURT, S.C./S.T. P.O.A. ACT & POCSO ACT, JAMUI

S.Tr. Case no. 653/2022

(Arising out of Laxmipur Gidhour P.S. Case No. 438/2019  
U/S 366 of the I.P.C.)

Cognizance u/s- 366/ 376 I.P.C.

State

Vs.

Lalan Yadav

Learned counsel for the Petitioner.....Sri Sakaldeo Mandal, Advocate  
Learned counsel for the State.....Sri Ramakant Singh, A.P.P.

PRESENT-DHIRENDRA BAHADUR SINGH  
ADDITIONAL SESSIONS JUDGE-I, CUM SPECIAL  
COURT, S.C./S.T. P.O.A. ACT & POCSO ACT, JAMUI  
DATE OF ORDER- 07<sup>th</sup> October, 2023.

ORDER

07.10.2023 :

1. A petition u/s 227 Cr.P.C. filed on behalf of accused/petitioner **Lalan Yadav** s/o- Muneshwar Yadav, r/o Village- Alakpura, P.S.- Gidhour, District – Jamui, in connection with Laxmipur Gidhour P.S. Case No. 438/2019 U/S 366 of the I.P.C is put up before me for hearing today. Chargesheet has been submitted u/s 366/ 376 of the I.P.C. The cognizance has been taken u/s- 366/ 376 I.P.C.
2. Learned counsel for the petitioner submitted that he is quite innocent and has committed no offence. He further submitted that the informant has filed two cases and the other case vide SC/ST P.S Case no. 53/2019 was found false and the F.F. has already been accepted. He further submitted that the informant is not an eye witness and the victim is mother of four children and the doctor has not found any sign of recent forceful intercourse and section 376 of the I.P.C. has got no application at all in this case. He further submitted that the police has found the case of kidnapping false in other case. Hence prayed to discharge the petitioner from this case.
3. On the other hand learned A.P.P. strongly opposed the discharge petition and submitted that there are sufficient material in the case diary to frame charge against the petitioner u/s u/s 366/ 376 I.P.C. He further submitted that the material of other case cannot be considered for discharge of the petitioner in the present case. He further submitted that the victim has supported the prosecution case in her statement u/s 164 of the Cr.P.C and other witnesses have also supported the prosecution case. Hence prayed to dismiss the discharge petition.

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4. Having heard the submission of parties and from perusal of case record, as well as case diary para nos. 1, 2, 3, 6, 10, 11, 14, 25, 26, 27, 29, 30, 31, 38, 39, 44, and the medical report annexed with the case diary it appears that there is sufficient material to frame charges u/s 366/ 376 of the I.P.C. against the petitioner Lalan Yadav. The informant and other witnesses supported the prosecution case. The victim also supported the prosecution case is her statement recorded u/s 164 of the Cr.P.C and she has clearly stated that the accused Lalan Yadav kidnapped her and established repeated forceful sexual intercourse with the victim. It is the settled principle of law that the charge can be framed even on the basis of suspicion and here in this case there are sufficient material in the case diary to frame the charge u/s 366/ 376 I.P.C. against the petitioner accused.

5. Considering aforesaid facts and circumstances, the discharge petition filed on behalf of accused/petitioner, is hereby dismissed.

Put up on 04.12.23 for framing of charge.

Accused is directed to remain physically present.

**Dictated**

**ADDITIONAL SESSIONS JUDGE-  
I-CUM SPECIAL JUDGE, POCSO  
ACT, JAMUI**