

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53531 of 2016

Arising Out of PS.Case No. -73 Year- 2016 Thana -MAHILA P.S. District- PATNA

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Nutan Joseph @ Chhoti Mam @ Nutan Mam daughter of Joseph Francis,
Resident of Kurji Christian Colony, Police Station Digha, in the district of
Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma

For the Opposite Party/s : Smt Pushpa Sinha

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

2 23-12-2016 Heard learned Senior Counsel Mr. Akhileshwar Prasad

Singh for the petitioner, learned Senior Counsel Mr. Y.C. Verma

for the informant and learned Counsel appearing on behalf of the

State.

The petitioner seeks bail in a case instituted under
Sections 377/34 of the Indian Penal Code and 6 of POCSO Act.

The prosecution story, in brief, is that when the
daughter of the informant was feeling uncomfortable while she
was returning from the school, the informant asked her then she
came to know that the petitioner used to insert finger in her
urinary organ and the victim further stated that co-accused namely
Indu Anand, whom she called Bari Mam used to watch the
occurrence. Thereafter the informant told the entire story to her
husband and also made complaint to the School and got the victim



examined by a Doctor. It is further alleged that when she went to meet the Principal of the School, he was not willing to meet. However, he met after much effort and they complained about the petitioner but he did not pay much attention to it. It is further alleged that the Principal called the accused persons before the victim but due to fear, she did not tell anything. The informant stated that her daughter told that such occurrence was being done by the teachers from a long period.

It has been submitted on behalf of the learned Senior counsel Mr. Akhileshwar Prasad Singh that the petitioner is in custody since 05.11.2016. The charge sheet has not yet been submitted. The petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is a senior lady teacher in the school, teaching in one of the prestigious schools of Patna. The allegations made in the F.I.R. are highly improbable. The present prosecution has been brought only to bring bad name of the institution. The alleged occurrence is said to have been taken place on 27.10.2016 but the case was instituted on 03.11.2016. The delay in institution of the case has not been explained by the prosecution.

On behalf of the state and the learned Senior counsel Mr. Y.C. Verma, it has been submitted that the petitioner is



named in the F.I.R. The alleged occurrence is said to have been taken place with 5 to 6 years of female children, who had gone to the school. It is not expected that such an act could be committed on the part of the teacher, committing an offence under Section 377 of the Indian Penal Code. The medical examination report by one of the leading Gynecologist of the town Dr. Manju Gita Mishra is part of the F.I.R. The allegations made in the F.I.R. are supported by the said medical report. The doctor found the hymen torn. The victim girl has been examined under Section 164 of the Cr.P.C., where she has supported the allegations made in the F.I.R., which is Annexure-3 to the present application.

Considering the aforesaid facts and circumstances and the nature of the offence committed by a teacher in the school, I am not inclined to grant bail to the petitioner. The same is rejected in Special (POCSO) Case No. 167 of 2016, arising out of Mahila P.S. Case No. 73 of 2016, pending in the court of learned 1st Additional Sessions Judge, Patna.

Anyhow, the court below is directed to take all necessary steps to conclude the trial preferably within a period of 9 months from the date of receipt/production of this order.

(Sudhir Singh, J.)

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