

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55330 of 2016

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

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1. INDU ANAND @ BARI MAM Wife of Sri Anand Prakash Resident of
Chakaram, Police station-Buddha Colony, Distt.- Patna (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kanhaiya Pd. Singh, Sr. Advocate
Mr. Sanjeev Kumar, Advocate

For the State : Smt. Pushpa Sinha, APP

For the informant : Mr. Yogesh Chandra Verma, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 02-03-2017 Heard Sri Kanhaiya Prasad Singh, the learned senior
counsel for the petitioner, Mr. Yogesh Chandra Verma, the
learned senior counsel for the informant, and the learned
Additional Public Prosecutor.

The petitioner seeks her bail in Mahila P.S. case No.
73 of 2016 under Section 377/34 of the Indian Penal Code and
under Section 6 of the POCSO Act.

The informant alleged that her daughter, the victim,
aged about five years, was studying in St. Xavier High School,
Patna in class-LKG. The faculty teacher Chhoti Mam @ Nutan
Joseph @ Nutan Mam, after school hours, used to take her
daughter in a room situated behind the school and she used to



sexually harass the victim. She further alleged that while the victim was being harassed sexually, Indu Anand @ Bari Mam used to watch the proceeding standing there.

The learned senior counsel for the petitioner submits that the informant did not make any allegation of sexual assault against the petitioner. She alleged that petitioner was watching the proceeding standing in the room. It is further submitted that sister-in-law of the informant also made same and similar allegation in paragraph 4 of the case diary but neither the victim nor the informant in their statement under Section 164 of the Cr. P. C. whispered any word against the petitioner. It is further submitted that even during the course of investigation the victim did not identify the petitioner. The petitioner is in jail since 05.11.2016. The prayer for bail of Nutan Joseph @ Chhoti Mam, who is alleged to have sexually harassed the victim, has been rejected by a Bench of this court vide order dated 23.12.2016 passed in Cr. Misc. No. 53531 of 2016 but the case of petitioner stands on quite different footing as absolutely there is nothing against the petitioner.

On the contrary, Sri Yogesh Chandra Verma, the learned senior counsel for the informant, and the learned Additional Public Prosecutor opposed the prayer for bail and



submitted that the offence is very heinous in nature. The mother of the victim is informant. The mother of the victim made very specific allegation that while her daughter was being subjected to sexual harassment by Nutan Joseph @ Chhoti Mam, the petitioner was also watching the proceeding standing there and this fact itself shows the complicity of the petitioner in such a heinous crime. It is further submitted that Amrit Rashmi @ Shilpi, sister-in-law of the informant, also made similar allegation. The prayer for bail of Nutan Joseph @ Chhoti Mam has already been rejected and the petitioner does not deserve bail.

On perusal of the records, it appears that, of course, the informant, mother of the victim, made allegation that Nutan Joseph @ Chhoti Mam used to sexually harass her minor daughter, aged about five years, after over of the class, and the petitioner was also watching the procedure but the informant, Shruti Mathur, made her statement under Section 164 of the Cr. P. C. and narrated the entire story, which she came to know from her daughter. The daughter of the informant disclosed how she was subjected to sexual harassment by her class teacher but the informant did not name the petitioner nor stated that petitioner was watching the procedure. The victim is, of course, aged about five years and she also made her statement under Section 164 of



the Cr P. C. but she also did not disclose the name of petitioner.

Having considered the facts that, of course, the petitioner is named in the FIR but neither the victim nor the mother of victim made any allegation of sexual harassment against the petitioner in the FIR or in their statement under Section 164 of the Cr. P.C. The informant, of course, made allegation in the FIR that she came to know that petitioner was watching the procedure by standing there but except this hearsay evidence, there is no other material to show the involvement of the petitioner. The petitioner is in jail since 05.11.2016.

Considering the facts aforesaid and the nature of allegation made against the petitioner, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Patna, in Special (POCSO) case No.167 of 2016, arising out of Mahila P.S. Case No. 73 of 2016.

(Prabhat Kumar Jha, J)

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