

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1766 of 2019

Arising Out of PS. Case No.-538 Year-2018 Thana- JAKKANPUR District- Patna

Madhu Prasad, son of late Janki Prasad @ late Janaki Prasad @ Janki Chouhan, Resident of Sanjay Nagar Road No.3, P.S.-Jakkanpur, District-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Jha

For the Opposite Party/s : Mr.Sri Bhanu Pratap Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 08.11.2018 in a case registered for the offences punishable under Sections 341,323,354,376,511,504,506 of the Indian Penal Code and Sections 8/12 of the Protection of Children from Sexual Offences Act, 2012 and Section 37(c) of the Bihar Excise (Amendment) Act, 2016.

The prosecution case got initiated on the basis of written report dated 06.11.2018 submitted by Sobha Devi to the Station House Officer, Jakkanpur Police Station to the effect that on 06.11.2018, at 8.00 P.M., the daughter of the informant Shilpa Kumari, aged about 10 years went to purchase biscuits and mixture from the shop of the petitioner,



then this petitioner asked her to wait for five minutes. After some time, when other customers left the shop of the petitioner, then the petitioner tried to ravish the daughter of the informant after switching off the lights of the shop. However, the daughter of the informant managed to escape from scene and narrated the incident to her mother. When the informant asked the petitioner about the incident, then the petitioner and her son tried to assault the informant.

It is submitted by learned counsel for the petitioner that the accusation has maliciously been levelled since the petitioner declined to give biscuits and mixture on credit to the daughter of the informant. Even assuming the accusation to be true, no offence of sexual assault is made out, as the offence of sexual assault under the provisions of POCSO Act is made if a person with sexual intent touches the private parts of a child or makes the child to touch similar parts of the person concerned. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the accusation is specific against the petitioner.

Considering the nature of accusation, coupled with



statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, POCSO, Patna in connection with Jakkanpur P.S. Case No. 538/2018.

(Dinesh Kumar Singh, J)

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