

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5290 of 2020

Arising Out of PS. Case No.-163 Year-2019 Thana- MADHEPUR District- Madhubani

Bhogendra Mahto, aged about 42 years (Male), son of Shiv Nandan Mahto,
resident of Village - Phatki Kutti, P.S.- Madhepur, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 21-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Shailendra Kumar Jha, learned counsel for the petitioner and Mr. Ram Anurag Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner is in custody in connection with Madhepur P.S. Case No. 163 of 2019 dated 20.10.2019, instituted under Sections 354 (B) of the Indian Penal Code and 8 of the Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioner is of trying to outrage the modesty of the 12 years old daughter of the



informant.

5. Learned counsel for the petitioner submitted that the allegation is false and the petitioner being neighbour there was dispute and this false case has been lodged. It was submitted that another case was lodged being Madhepur P.S. Case No.162 of 2019 at 9.30 AM on 20.10.2019 with regard to the incident on 13.10.2019 in which it was alleged that persons from the informant's side had assaulted the informant of Madhepur P.S. Case No. 162 of 2019. Learned counsel submitted that the present has been lodged after the said case as a counter blast at 10.05 AM on 20.10.2019 showing the incident to be of 12.10.2019 just to create a defence with regard to the present case. Learned counsel submitted that it is alleged that the girl was with her younger brother, but nothing has been said as to whether the said brother also raised any cry or told anything to anybody. It was further submitted that in the FIR, there is no allegation with regard to the petitioner also pulling down his pant, whereas, in the statement under Section 164 of the Code of Criminal Procedure, 1973, the girl has stated that the petitioner had also pulled down his pant. Learned counsel submitted that it is unbelievable that a person would pull down his pant in front of another witness and if, at all, the allegation



was true, he would have ensured that the younger brother of the girl was sent away and did not witness what the petitioner was to do. Learned counsel submitted that the petitioner having no criminal antecedent is in custody since 30.10.2019. It was submitted that, at best, only allegation against the petitioner is that he had touched the chest of the victim. It was further submitted that, even otherwise, it cannot be believed that a neighbour would do such thing going into the house of the victim.

6. Learned APP, from the case diary, submitted that the victim had narrated the incident to her mother and other witnesses have also supported the prosecution story. However, he did not controvert the fact that the witnesses have stated only on the basis of what was told to them and that there is no other eye witness of the incident.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bond of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge 1st cum Special Judge, POCSO Act, Madhubani, in Madhepur P.S. Case No.163 of 2019, subject to the conditions (i) that one



of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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