

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4124 of 2020

Arising Out of PS. Case No.-815 Year-2019 Thana- SHASTRINAGAR District- Patna

Rajesh Kumar, aged about 27 years, (Male), Son of Rajendra Prasad, Resident of Village - Samanpura, P.S. - Naubatpur, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Patanjali Rishi, Advocate
For the Opposite Party/s	:	Mr. Md. Arif, APP
For the Informant	:	Mr. Prakash Mahto, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-06-2020

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

2. Heard Mr. Patanjali Rishi, learned counsel for the petitioner; Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Prakash Mahto, learned counsel for the informant, who has *suo motu* appeared.

3. The petitioner is in custody in connection with Shastri Nagar P.S. Case No.815 of 2019 instituted under Sections 354(A)/34 of the Indian Penal Code and 4 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act').

4. The allegation against the petitioner, who is driver



of a bus of a private school, is of touching the private part of a five year girl, who used to study in the school and travel on the bus in question.

5. Learned counsel for the petitioner submitted that the allegation is false and has been made with ulterior motive to exert pressure on the school management to employ the mother of the girl as a teacher. It was submitted that the guardians of the girl had come to the school and had created ruckus pressurizing the management to employ the mother of the girl as a teacher and the same having been refused, this false case has been registered. Learned counsel submitted that the FIR has been lodged by the grandmother of the girl in which it has been stated that the driver had inserted something in the private part of the girl and in the medical report there is no corroboration of the same as no injury has been found either on the body or on the private part of the girl. Learned counsel submitted that before the police the girl has not stated about the occurrence and has made general statement, but before the Court under Section 164 of the Code of Criminal Procedure, 1973, she has stated that the petitioner is the driver of the bus and used to harass her by throwing her tiffin and also touching her private parts. It was submitted that the petitioner is in custody since 18.10.2019.



6. Learned APP, from the case diary, submitted that the girl is under six years of age and the allegation of her mother wanting to get the job of a teacher is false as the guardians had gone to school for action to be taken against the petitioner, but the school management had sided with the petitioner and had threatened the informant and her family. It was submitted that the statement of the girl before the Court that the petitioner touched her private parts is sufficient as the girl is of tender age and her statement was before the Court, which had ensured that such statement was of her own free will and, thus, the question of it being tutored is ruled out. It was further submitted that had the statement being tutored, the girl could have stated about the petitioner inserting something into her private part also, which has not been done and thus, the reliability of her statement is established.

7. Learned counsel for the informant submitted that the trial has already begun after submission of charge-sheet under Sections 376(A)(B) of the Indian Penal Code and 6 of the POCSO Act and the statement of the informant has also been partly recorded.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the



Court is not inclined to enlarge the petitioner on bail.

9. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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