

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.7502 of 2020**

Arising Out of PS. Case No.-396 Year-2019 Thana- RAJIVNAGAR District- Patna

Devesh Kumar @ Devesh @ Divesh Kushwaha, S/o Tapeswar Singh @  
Tapeswar Kumar Sinha @ Tapeswar Prasad Sinha, Resident of Village-  
Bagmusha, P.S.- Town (Hajipur), Distt- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate  
Mr.Nilesh Kumar, Advocate  
For the Opposite Party/s : Mr.Ajay Kumar Jha, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

3      07-07-2020                      Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Special (POCSO) Case No.156 of 2019 arising out of Rajivnagar P.S. Case No.396 of 2019 registered for the offence punishable under Sections 341, 323, 354(A), 354(B), 354D,



385, 379, 427, 504, 387, 506/34 of the Indian Penal Code and Sections 8, 10, 12, 18 of the POCSO Act.

The informant claiming herself to be a minor has lodged the F.I.R. alleging that the petitioner had inappropriately touched and groped her two years back while she was studying in the school and that he used to molest her. It is further alleged that he demanded Rs.5,00,000/- (five lacs) as *Rangdari*. Out of fear, she paid him Rs.10,000/-. She has also alleged that on 09.08.2019, the petitioner came to her house on a vehicle with 4-5 persons, abused her and tried to molest her. Thereafter, it is alleged that all the accused persons have gone to her uncle's house, damaged the vehicle parked there and also the gate of the house. It is also the allegation that the petitioner has been threatening to throw acid on her face.

Mr. Ajay Kumar Thakur, learned counsel appearing for the petitioner submits that the informant is a major. The same is evident from the fact that in the F.I.R. itself, she has alleged that she paid Rs.10,000/- from her own Bank account which could only have been operated by her only if she was a major. Therefore, POCSO Act could not be attracted. In fact, Rs.2.5 lacs loan was taken by the informant from the petitioner for starting a Dance School. She did not want to repay the same



after initial repayment of Rs.10,000/- and therefore, she has levelled these allegations *mala fide*. The alleged mobile phone of the petitioner, bearing No.6203139344, contains several pictures of the petitioner with the informant. Even in the investigation, the CDR has revealed that the petitioner and the informant were regularly talking to each other on phone. The investigation has also not revealed any damaged vehicle or damaged gate at the house of the uncle of the informant. Other than the members of the dancing group of the informant, none has come forward to support the case of the informant.

Learned APP for the State has opposed the prayer for pre-arrest bail.

Considering the rival submissions, this Court is inclined to allow the petitioner's prayer for anticipatory bail.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, 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 Act, Patna, in connection with Special (POCSO) Case No.156 of 2019 arising out of Rajivnagar P.S. Case No.396 of 2019,



subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

**(Madhuresh Prasad, J)**

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