

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22043 of 2020

Arising Out of PS. Case No.-115 Year-2020 Thana- FATHUA District- Patna

Chhote Kumar @ Vishwanath Kumar, aged about 21 years (Male), son of
Bashudev Prasad @ Bashudev Prasad Yadav, resident of Patel Nagar (Sonaru
Road), P.S. Fathua, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N K Agrawal, Sr. Advocate with
Ms. Preety Kunwar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 24-07-2020

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

2. Heard Mr. N K Agrawal, learned senior counsel
along with Ms. Preety Kunwar, learned counsel, for the
petitioner and Mr. Dinesh Singh, learned Additional Public
Prosecutor (hereinafter referred to as ‘APP’) for the State.

3. The petitioner is in custody in connection with
Fathua PS Case No. 115 of 2020 dated 13.02.2020, instituted



under Sections 341/342/354/354D/376/511/448/34 of the Indian Penal Code; 8/12 of the Protection of Children from Sexual Offences Act, 2012 and 66 of the Information Technology Act, 2000.

4. The allegation against the petitioner and four others is of teasing and harassing the informant and also sending vulgar messages on social media and of inappropriate touching.

5. Learned counsel for the petitioner submitted that firstly, the informant has not honestly stated with regard to her age where she has disclosed that she is minor, though in the certificate issued by the Tripolia Social Service Hospital, Patna, where she was born, the date of birth is mentioned as 27.05.2001 which clearly establishes that she was more than 18 years of age on the date of the FIR. Learned counsel submitted that at this stage, without going into the merits of the allegations, no physical abuse of the victim is even alleged and further that because the petitioner also a young boy with no other criminal antecedent and is in custody since 14.02.2020, the Court may consider granting him one opportunity to correct himself. Learned counsel submitted that today, before him is the father and elder brother of the petitioner and also Mr. Umesh Yadav, learned counsel in the Patna Civil Court, who is the



conducting lawyer before the Court below on behalf of the petitioner. It was further submitted that the father and the elder brother of the petitioner have given full assurance that they would assure that the victim or her family members are neither harassed nor troubled nor any witness is influenced and further that the petitioner shall not commit any offence in future. Learned counsel submitted that Pankaj Kumar, who is similarly situated, has been granted bail by a coordinate bench on 02.07.2020 in Cr. Misc. No. 21413 of 2020.

6. Learned APP submitted that the petitioner is also accused of harassing the informant and is party to posting of vulgar messages on social media.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, especially the categorical assurance of the father and elder brother of the petitioner, and also the materials on record, the Court is inclined, by way of indulgence, to allow the prayer for bail to the petitioner. Accordingly, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, POCSO Act, Patna in Special Case No. 38 of



2020 arising out of Fathua PS Case No. 115 of 2020, subject to the conditions (i) that the bailors shall be father and elder brother 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. This Court directs the Court below that in the event any complaint is filed by the informant or her family members against any type of harassment, coercion or threat by the petitioner or his family members, the Court below shall immediately take cognizance and also proceed for cancelling of the bail bonds of the petitioner and take him into custody, after giving an opportunity of hearing to him, besides taking all other action in the matter against the petitioner and the bailors, in accordance with law.



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

(Ahsanuddin Amanullah, J)

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