

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23380 of 2020

Arising Out of PS. Case No.-109 Year-2020 Thana- DANAPUR District- Patna

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Sunny Kumar, S/o Awdhesh Kumar Sav, Resident of Nariyal Ghat, P.S. -
Danapur, District - Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Binod Jee Verma, Advocate
For the Opposite Party : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 14-10-2020 Filing through e-mail of the present application has

been accepted in view of the out-break of COVID-19 Pandemic

and has been posted before me for hearing through video

conferencing.

2. The application is apparently not in accordance

with the provisions prescribed under the Patna High Court Rules,

which do not contemplate filing of application through email. In

spite of that, considering the extra-ordinary situation, filing of the

present application has been allowed through email.

3. Considering the situation prevailing, the Court has

considered, for the present, to ignore the deficiency in filing of the

application.

4. Heard learned counsel for the petitioner. Nobody

has joined on behalf of the State despite valid service of notice and



transmission of link for joining the online Court proceeding.

5. The petitioner has filed the present application under Sections 439 and 440 of the Code of Criminal Procedure for grant of bail in connection with Special Case No.35 of 2020 arising out of Danapur P.S. Case No. 109 of 2020 registered under Section 354 B of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

6. It is submitted by the learned counsel for the petitioner that the police have mechanically registered a case inter alia under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). Even from the first information report lodged with the police, it would be evident that it is not a case of penetrative sexual assault or aggravated penetrative sexual assault. At best, on the basis of allegations made in the first information report, the police could have registered a case under Section 11 of the POCSO Act. It is further contended that the instant case has been instituted in retaliation to the first information report lodged by the father of petitioner against one Golu Kumar, brother of the informant of the instant case vide Danapur P.S. Case No.140 of 2018 registered inter alia under Section 307 of the Indian Penal Code in which pre-arrest bail application of the accused Golu Kumar has been



rejected by this Court on 11th July, 2018. Since the institution of the first information report against Golu Kumar, his family members were continuously put in pressure by the petitioner and his family members to compromise the case and when the petitioner and his family members did not agree, a false case making wild allegation has been levelled on the basis of which, the petitioner has not only been apprehended but is languishing in jail since 11th February, 2020. It is further contended that in the statement under Section 164 of the Code of Criminal Procedure also, the alleged victim has not uttered a word, which would attract the offences under which the first information report has been registered.

7. Considering the submissions made above, the nature of the offence alleged, the documents annexed in support of the submissions and the statements made in para 3 of the application that the petitioner has got no criminal antecedent, he is directed to be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, POCSO, Patna in connection with Special Case No.35 of 2020 arising out of Danapur P.S. Case No.109 of 2020.

8. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been



restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my e-mail by the Senior Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my e-mail id to the Senior Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Binod Jee Verma, learned counsel for the petitioner also on his e-mail.
- (v) Let steps be taken by the Senior Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

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