

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.29117 of 2020**

Arising Out of PS. Case No.-418 Year-2019 Thana- BAIRIYA District- West Champaran

SHEIKH ARMAN Son of Late Sheikh Muslim Resient of Village-
Tadhwanandpur, P.S.- Bairiya, District- West Champaran. Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 08-12-2020 Heard learned counsel for the petitioner and Mr. Sanjay Kumar Sharma, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Bairiya P.S. Case No. 418 of 2019 registered for the offences punishable under Sections 341, 323, 354-B, 366-A/511, 506/34 of the Indian Penal Code and Section 8 of POCSO Act.

Learned counsel for the petitioner submits that as per allegations in the First Information Report while the victim girl had gone to ease out behind her house at about 08:00 P.M., the co-villager, namely, (1) this petitioner Sheikh Arman and (2) Sheikh Irfan came to her and they caught hold of her. This petitioner is said to have pressed the mouth of the informant and both the accused attempted to forcibly took her to a car which was standing near her house but as the informant shouted, the neighbours from the neighbouring houses came there running and on seeing them the accused persons fled away. It is alleged that after the said occurrence,



on the next day they came to the house of the informant and threatened her that if she would inform this occurrence to the police station, they would forcibly lift her.

Learned counsel for the petitioner submits that it is a case of false implication and this fact would appear on going through the investigation report. It is submitted that this petitioner is next door neighbour of the informant and he was earning his livelihood at Qatar. The petitioner is married person and his wife was pregnant, he came to his native place to take care of his wife.

It is submitted that the informant's family and the petitioner's family were related to each other and being next door neighbour they had been maintaining social contacts. Since the father of the informant was facing some financial constraints, he requested for a loan from this petitioner and the petitioner gave him a loan of Rs.10,000/- which is recorded in the handwriting of the father of the informant (Annexure '2/1'). Learned counsel submits that the fact that the petitioner had given loan to father of the informant and then on demand there had been some quarrel between the two families has transpired in the case diary through the statement of independent witnesses recorded in paragraph '36' and '37' of the case diary.

Learned counsel for the petitioner submits that only because of the said quarrel as the father of the informant failed to refund the money paid to him, this petitioner has been falsely implicated by concocting a case. It is pointed out that as per



allegation this petitioner had pressed the mouth of the informant and the two accused were forcibly trying to put her in a car whereupon the informant shouted and then the neighbours ran and came to the place of occurrence but in course of investigation not a single independent witness has come forward to say that they had heard the shouting of the informant and had run towards the place of occurrence. No witness has come forward to say that they had seen this petitioner fleeing away from the spot. It is submitted that on the face of her own claim in the FIR if the neighbours had come running to save her, at least one of them could have come forward to support the prosecution case.

Learned counsel submits that as per allegations also the petitioner pressed her mouth, there is no allegation that he has touched otherwise or did any indecent act with the victim girl which may be said to have been interfering with her body and as the allegation of pressing the mouth and trying to forcibly put her in the car is not supported by any independent witness, the petitioner may be enlarged on bail.

Learned APP for the State has though opposed the prayer for bail but on going through the case diary and on repeated query made by this Court learned APP has categorically stated that there is no witness in the case diary saying that he had seen the petitioner fleeing away from the place of occurrence. There is also no witness who have seen the alleged car which according to the informant was there in which she was trying to be forcibly put. Learned APP has read out the statements of two independent witnesses recorded in



paragraph '36' and '37' of the case diary and these two witnesses have indicated that the petitioner's family and informant's family were going to each other houses and then there had been some money transactions and because of the money dispute quarrel had taken place on some occasion between the two families. Learned APP submits that both the families are residing next door.

Having regard to the facts and circumstances of the case, in the nature of the materials which have come in the case diary, the allegation against this petitioner is that he had pressed the mouth of the informant and still as per her own claim the informant shouted, there being no independent witness saying that they had seen the petitioner or had heard shouting of the informant and none of the neighbours coming forward to say that they had seen the petitioner fleeing away from the place of occurrence or that there was any car standing there, the material coming through independent witness indicating that there had been money transactions and there being submission showing Annexure '2/1' as an acknowledgment of receipt of sum of Rs.10,000/- by the father of the informant and then the petitioner being in jail in connection with this case for about 10 months, chargesheet has already been filed and he is ready to abide by the terms and conditions for purpose of bail, let the petitioner above-named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each, to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, POCSO Act, West Champaran, Bettiah in connection with Bairiya P.S. Case No. 418 of



2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

The application is allowed.

(Rajeev Ranjan Prasad, J)

SUSHMA2/Rajeev

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

