

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 77804 of 2019

Arising Out of PS Case No.-244 Year-2014 Thana- MAJHAULIYA District- West Champaran

Md. Rabe Alam, @ Rabe Alam, aged about 28 years, Gender-Male, Son of Habibullah, Resident of Village - Dhokraha, Police Station - Majhauilya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Singh, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 07-09-2020

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

2. Heard Mr. Arbind Kumar Singh, learned counsel for the petitioner and Mr. Nirmal Kumar Sinha, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Majhauilya PS Case No. 244 of 2014 dated 24.07.2014, instituted under Sections 376 and 511 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offence Act, 2012 (hereinafter referred to as the 'POCSO Act').

4. The allegation against the petitioner is of trying to outrage the modesty of the informant, who was a minor.



5. Learned counsel for the petitioner submitted that the case is totally false and concocted. It was submitted that the informant has alleged that she had come to her maternal uncle's village and at 7.30 PM on 14.07.2019, the petitioner had come and asked about her mother and when she told him that she had gone to Bettiah to get medicine, he tried to outrage her modesty and when she raised cry, other persons had come and saved her. It was submitted that the falsity of the allegation is clear from the same itself, inasmuch as, at 7.30 PM, there is no explanation as to why the mother of the informant, who herself had come as a guest to her parents' place, would leave the village and go to Bettiah and secondly, when the informant was a guest in the house of her maternal uncle, it cannot be believed that at 7.30 PM, a guest would be left alone in the house without there being any other person there. Learned counsel submitted that in the FIR itself, it has been submitted that other persons had come and saved her and if the same is true, it means that the petitioner was still trying to commit the crime and, thus, there is no explanation as to why nobody caught hold of the petitioner. Learned counsel submitted that the reason for this false implication is that right from quite some time back, the informant's maternal grandfather had tried to encroach public land for which a complaint was made against him



by the parents of the petitioner which led to a proceeding and the administration had to forcibly clear such encroachment. It was submitted that the parties are living across each other with a road intervening and, thus, there is a constant dispute with regard to the side of the informant trying to encroach the public land and to exert pressure, this patently false case has been instituted. Learned counsel submitted that witnesses have stated that the petitioner has a good character and that there was hot talk and the parties had also exchanged blows. It was submitted that the petitioner has no criminal antecedence. Learned counsel submitted that the police after investigation had not found the case true under the POCSO Act and, thus, charge sheet has been submitted only under Sections 323 and 504 of the Indian Penal Code.

6. Learned APP, from the case diary, submitted that witnesses have supported the prosecution story. However, he did not controvert the fact that many witnesses have also stated with regard to there being land dispute between the parties and that the petitioner possessed good character and that due to land dispute the petitioner has been falsely implicated as also the fact that the police has submitted charge sheet only under Sections 323 and 504 of the Indian Penal Code.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 District Judge-cum- Special Judge, Bettiah, West Champaran in Majhauriya PS Case No. 244 of 2014, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds.

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

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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