

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 18155 of 2021

Arising Out of PS Case No.-143 Year-2018 Thana- NARHAT District- Nawada

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Sharwan Yadav @ Pawan Kumar, Male, aged about 36 years, Son of Late Narayan Yadav, Resident of Village- Tarpur. PS Narhat, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Swetabh, Advocate

For the State : Mr. Narendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-06-2021

The matter has been heard via video conferencing.

2. Heard Mr. Surya Swetabh, learned counsel for the petitioner and Mr. Narendra Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Learned counsel for the petitioner submitted that he may be permitted to make correction in paragraph no. 21 of the application in which the number of the earlier case has been wrongly typed.

4. Permission granted.

5. Let necessary correction be made through e-mode during the course of the day.



6. The petitioner is in custody in connection with Narhat PS Case No. 143 of 2018 dated 12.06.2018, instituted under Sections 341, 323, 354B and 504/34 of the Indian Penal Code and 8 of the Protection of Children from Sexual Offences Act, 2012.

7. This is the second attempt for bail by the petitioner as earlier such prayer was rejected by order dated 15.07.2020 passed in Cr. Misc. No. 15681 of 2020.

8. The allegation against the petitioner and another co-accused is that when the two nieces of the informant had gone outside the house to attend the call of nature, the petitioner and another co-accused had thrown them on the ground and had attempted to commit rape and outrage their modesty, but on alarm being raised, they had fled away and it is further alleged that when the informant went to the house of the petitioner, he as well as the other co-accused had assaulted them.

9. Learned counsel for the petitioner submitted that he and the other co-accused, Sanjay Yadav, are full brothers and that they are neighbours of the informant and there is boundary dispute between the parties. It was submitted that even otherwise, it is unbelievable that two brothers would together try to do such act and also that the informant is the uncle of the so-called victim girls, and despite father being present, who in natural course of



things would have filed the case and would have gone to the house of the petitioner; but in the instant case, only the uncle is said to have gone to the house of the petitioner. Learned counsel submitted that on the last occasion, while the Court was considering the matter and had dismissed the prayer for bail, it had been noted that nothing has been shown to indicate that there was land dispute. It was submitted that at that time, no material was brought on record, but the father of the victims himself has filed an application before the Circle Officer, Narhat, Nawada for measurement of land in which, in the southern boundary, the name of the petitioner and his brother figures. Thus, it was submitted that in such background, the allegation is clearly false and fabricated. It was submitted that the petitioner is in custody since 22.01.2020. Learned counsel further submitted that the brother of the petitioner, who is co-accused in the case namely, Sanjay Yadav has been granted bail by a co-ordinate Bench by order dated 05.06.2020 passed in Cr. Misc. No. 17948 of 2020.

10. Learned APP submitted that there is no change of circumstances since the order of last rejection. However, he did not controvert the fact that in the last order, it had been indicated that on behalf of the petitioner, there is allegation with regard to



land dispute, whereas in the petition, there was no material to show that there existed land dispute.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, 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 Additional District and Sessions Judge, 1st cum Special Judge, Nawada in Narhat PS Case No. 143 of 2018, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



13. The petition stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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