

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18579 of 2021**

Arising Out of PS. Case No.-226 Year-2020 Thana- SULTANGANJ District- Patna

BHOLA @ BHOLA MAHTO Son of Prem Mahto Resident of Village- Devi Ashtan, Neemtal Balu Ghat, P.S.- Sultanganj, District- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Munna Kumar, Advocate

For the Opposite Party/s : Mr.Jagdhari Prasad, APP

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

2 30-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

At the outset, learned counsel for the petitioner submits that this being a police case neither the informant nor the daughter of the informant are necessary parties, hence he prays to delete opposite party nos. 2 and 3.

As prayed, let the opposite party nos. 2 and 3 be deleted.

Petitioner, in the present case, is seeking regular bail in connection with Special (POCSO) Case No. 170/2020 (Sultanganj P.S. Case No. 226/2020) registered for the offences punishable under Section 376/511 of the Indian Penal Code and under Section 6/7/8 of the POCSO Act. Petitioner is in custody in connection with this case since 17.09.2020.

According to the prosecution story, when the informant was returning from the house of K.K. Prasad, Rani Ghat after cleaning his house and utensils this petitioner came there and started to pull her by catching her hand in the dark street with bad intention, when she raised hulla nearby people came there the accused petitioner fled away.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner. Petitioner and the informant are close door neighbours. In course of trial out of four charge-sheet witnesses the two non-official witnesses who are the mother of the victim girl and the victim herself both of them have been examined. Their depositions are on the record and it would appear from the deposition of the witnesses that the mother of the victim girl has been declared hostile after she said that this petitioner has not committed any wrong act with her daughter. She also denied the suggestion of the prosecution that this petitioner had also caught hold the hand of her daughter and was forcibly pulling towards a place with bad intention.

Learned counsel further submits that the victim girl has also been examined and she has stated in her cross examination that this petitioner had not committed any wrong act with her, she has also admitted that there was a quarrel

between the petitioner and the mother of the informant on account of throwing of garbage and informant further admits that she had lodged the case on the advise of people of the locality.

Learned counsel further submits that now only two official witnesses are required to be examined however because of the present pandemic situation when the court is not functioning physically it is not possible to get examined the witnesses in near future and the trial is not likely to be concluded very soon. The petitioner has already remained in custody for about 11 months.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner but considering the facts and circumstances of the case and the materials which have been placed before this court and have been taken note of hereinabove, and upon finding that only two official witnesses are required to be examined who are not likely to be influenced by the petitioner, the petitioner has remained in jail for 11 months but the conclusion of trial is still likely to take some substantial time, this court directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the

like amount each to the satisfaction of learned Additional Sessions Judge – VII – cum Exclusive Special (POCSO Act) Judge, Patna in connection with Special Case No. 170 of 2020 (Sultanganj P.S. Case No. 226/2020), subject to the condition as laid down under Section 437 (3) 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 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. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Further condition that during the course of trial the petitioner shall not try to contact the informant and/or her mother and further condition that he would attend the trial on each and every date fixed in the matter, two consecutive defaults in putting appearance shall invite action towards cancellation of bail of the petitioner.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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'.