

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30952 of 2021

Arising Out of PS. Case No.-48 Year-2018 Thana- SHIVSAGAR District- Rohtas

MANTU SAH @ MANTU KUMAR Son of Rameshwar Sah Resident of
Village - Malwar, P.S.- Shivsagar, District - Rohtas at Sasaram.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr .Advocate Mr.Raghunandan Kumar Singh
For the Opposite Party/s :		Mr.Digvijay Kumar Ojha Mr. Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 15-12-2021 Heard Mr. N.K. Agrawal, learned senior counsel for
the petitioner, Mr. Digvijay Kumar Ojha, learned counsel for the
informant and learned A.P.P. for the State.

Petitioner seeks regular bail in connection with
POCSO Case No. 9 of 2018 arising out of Shivsagar P.S. Case
No. 48 of 2018 registered for the offence under Section 341,
323, 354(B), 504 / 34 of the I.P.C. and Section 8 / 18 of the
Protection of Children From Sexual Offences Act, 2012.

The allegation as per the First Information Report
lodged by the informant is that on 14-02-2018 at about 6.30 PM
she had gone to attend nature's call and in the meanwhile the co-
accused / Manu Shah caught hold the arms of the victim and
dragged her, in the meanwhile villagers arrived at the place of
occurrence and the accused persons fled away. It has further



been alleged that the petitioner assaulted the person who had come for the rescue of the victim.

Learned senior counsel for the petitioner submits that petitioner has falsely been implicated in this case due to village politics and previous dispute between the petitioner's family and informant's family and in support of the same he has annexed an order passed by the learned Judicial Magistrate 2nd Class Sasaram (Annexure -4 to the supplementary affidavit). He next submits that earlier on the basis of the first information report the petitioner was granted bail by the learned Special POCSO Court (i.e. Additional Sessions Judge- 1st , Rohtas at Sasaram) in POCSO Case No. 09 of 2018 on 06/09/2018 but subsequently Section 376 of the IPC was added and bail granted to the petitioner was cancelled by the learned (Addl. Sessions Judge -VI) Exclusive Special Court, POCSO, Rohtas at Sasaram on 3rd March, 2021 and petitioner was arrested and his bail application was rejected by the court below which has been impugned in the present application. Learned counsel further submits that from perusal of the First Information Report it would be evident that specific allegation of dragging the victim girl is upon the co-accused / Manu Shah. He next submits that FIR was lodged on 14-02-2018 and on 23.03.2018 statement of



the victim girl was recorded under Section 164 Cr.P.C. by the learned Magistrate in which she has not stated anything against the petitioner and the allegation was made against the Manu Shah who allegedly took naked photograph of the victim. He further submits that there is contradiction in the prosecution story and the statement made by the victim girl under Section 164 Cr.P.C.

On the other hand, learned counsel for the informant submits that statement of the victim girl was recorded again by Mahila Thana on 10-03-2018 in which she has stated before the Police in her statement recorded under Section 161 Cr.P.C. that the co-accused / Mannu Shah and the petitioner had taken the victim girl to a room where after stripping her they committed rape upon her.

Regard being had to the submissions made by the parties and taking into consideration the materials available on record, the fact that there is apparent contradiction in the statement of the victim girl recorded in the FIR dated 14/02/2018, the statement of the victim girl recorded under Section 161 Cr.P.C. by the Mahila Thana on 10-03-2018 and the statement of the victim girl recorded by the learned Magistrate under Section 164 Cr.P.C. on 23/03/2018, the



petitioner was earlier granted bail by learned Special POCSO Court itself (i.e. Addl. Sessions Judge -1, Rohtas at Sasaram) which was subsequently cancelled and now the petitioner is in custody since 3rd March 2021, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be released on regular bail on furnishing bail bond of Rs. 10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI, Exclusive Special Court, POCSO Rohtas at Sasaram in connection with POCSO Case No. 9 of 2018 arising out of Shivsagar P.S. Case No. 48 of 2018.

(Anil Kumar Sinha, J)

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