

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22613 of 2020

Arising Out of PS. Case No.-8 Year-2019 Thana- C.B.I CASE District- Patna

SUMAN SINGH W/o Dr. Rajeev Ranjan Kumar Singh, Resident of Shantipuri, P.S.- Motihari, District- East Champaran, Bihar- 845401, Presently residing at Arpana Bank Colony, Phase-2, Ram Jaipal Road, New Bailey Road, Danapur, P.S.-Rupaspur, District- Patna- 801503.

... .. Petitioner/s

Versus

The Union of India through The CBI/SCB/Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Kumar Kaushik
For the Opposite Party/s	:	Mr.K.N.Singh (A.D.S.G.)
For the CBI	:	Mr.Bipin Kr. Sinha,(SC/CBI)
	:	Mr.Ravi Bhushan (JC to SC/CBI)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

10 16-03-2021 Heard learned counsel for the petitioner and learned APP for the State.

The petitioner is apprehending his arrest in a case registered for the offence punishable under Sections 341/ 342/ 323/ 504/ 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences (POCSO) Act and Section 75 of the Juvenile Justice Act.

Prosecution case in brief is that the Station House Officer, Turkaulia P.S. received a written report from District Programme Officer in which it was stated that under the Women Development Corporation, Bihar, a Short Stay Home named “Shakhi” was being run by a non-Govenmental organization at



the house of Shiv Prasad Pandey, Raghunathpur, Near Bus Stand, P.S.-Raghunathpur O.P.-East Champaran at Mothihari. The Tata Institute of Social Sciences (TISS) submitted a report that unsatisfactory running of the Short Stay Home where violence against women and girls especially those who are mentally challenged and in human behaviour of the employees with the inmates.

Learned counsel for the petitioner submits that on the basis of written report, Turkaulia P.S. Case No. 499/2018 dated 04.08.2018 for offence under Sections 341/ 342/ 323/ 504/ 34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences (POCSO) Act and Section 75 of the Juvenile Justice Act. Thereafter, the Hon'ble Supreme Court directed the cases mentioned in the Chapter with the heading "Grave Concern" in the report of TISS to be looked into by the CBI vide order dated 28.11.2018 passed in Special Leave to Appeal © No. 24978/2018. The Hon'ble Supreme Court directed that henceforth all the "Grave Concern" cases will be investigated by the CBI.

Learned counsel for the petitioner further submits that on the basis of direction of the Hon'ble Supreme Court, the CBI registered FIR No.RC092201950008 dated 16.01.2019 for the



aforesaid offences. The CBI conducted investigation in the matter and submitted charge-sheet against eight accused persons including the petitioner on 27.12.2019 for offences under Sections 376 (2)(d), 370A, 120B of the I.P.C. and Sections 5 (d) and 6 of the POCSO Act. Thereafter, cognizance was taken by the learned Special Judge cum Additional District and Sessions Judge-1, East Champaran at Motihari vide order dated 09.01.2020 for offence under Sections 376 (2) (d), 370A, 120B of the I.P.C. and Sections 5 (d) and 6 of the POCSO Act.

Learned counsel for the petitioner further submits that it would appear from the charge sheet submitted by the police that there is no material to connect the petitioner to be crime in question. Charge sheet submitted by the police that no offence has been committed by the petitioner. There is no medical report of any women residing at the Short Stay Home which can establish any sexual offence. The entire case of the prosecution is based on the statement of INMATE-1 as per the charge sheet filed by the CBI, it would appear from the charge sheet that INMATE-1 had joined the Short Stay Home, Motihari on 09.12.2017 whereas the officials of the TISS had visited the Short Stay Home at Motihari on 10.12.2017. Therefore, her statement was not the basis of the findings in the report of the



TISS officials as she had not even spent one day in the Short Stay Home by the time, the officials of the TISS had arrived.

Learned counsel for the petitioner further submits that the INMATE-1 was examined under Section 164 Cr.P.C. before the learned Judicial Magistrate-2nd Class, Motihari, East Champaran on 04.12.2018. It would appear from the statements of Section 164 Cr.P.C. that INMATE-1 is not a minor and has not named the petitioner and has not made any allegation at all against the petitioner as Annexure-4 of the bail petition. The victim has not alleged any Act of sexual violence against her in the statements made under Section 164 Cr.P.C. The statements are general and omnibus and made with respect to the other inmates and no allegations of any sexual Act against her has been leveled by the INMATE-1. That another Inmate was also examined under Section 164 Cr.P.C. before the learned Judicial Magistrate has not stated that any offence was committed at the Short Stay Home against her or any others.

Learned counsel for the C.B.I. opposes the prayer for bail petition and submits that the investigation revealed that Inmate-1 had joined the Short Stay Home, Motihari on 09.12.2017 and departed on 21.05.2018 from the said Home. After leaving the said Home, she has been married and living



with her in-laws/husband. At the time of examination by CBI and NIMHANS, Bengaluru, she was carrying pregnancy of nine months. In further investigation revealed that Inmate-1 was admitted in the said Short Stay Home on 09.12.2017 and her date of birth was found to be 11.12.2001 as per the school record where she had last attended. This establishes that she was minor at the time when she was admitted into the said Short Stay Home and at the time of commission of offence. Investigation revealed that the petitioner alongwith others had entered into criminal conspiracy with unknown outsiders, facilitates the sexual, physical and aggravated penetrative sexual assault of Inmate-1 at the hands of those outsiders in lieu of getting financial gains. The unknown outsiders by hatching criminal conspiracy with aforesaid staff of Home committed rape upon minor girls Inmate-1 within the premises of Shelter Home. The staff of Home, for the purpose of exploitation of Inmate-1, compelled her by using threats/coercion for having sex with outsiders and subsequently received payments from the perpetrators.

In the aforesaid facts and circumstances, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is rejected in connection with FIR No.



RC092201950008 dated 16.01.2019 from the Court of learned
Special Judge cum Additional District and Sessions Judge-1,
East Champaran.

Accordingly, the application is dismissed.

(Anjani Kumar Sharan, J)

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