

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.432 of 2021

Arising Out of PS. Case No.-371 Year-2020 Thana- BHABHUA District- Kaimur (Bhabua)

SUCHIT KUMAR @ SACHITA KUMAR Son of Paras Chaudhary @ Paras Ram Resident of Village - Babura, P.S.- Bhabua, District - Kaimur (Bhabua), Under natural guardian of his father Paras Chaudhary @ Paras Ram Son of Shivchan Ram, Resident of Village - Babura, P.S.- Bhabua, District - Kaimur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh, Advocate
For the Respondent/s : Mr.Surendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 17-12-2021 Heard learned counsel for the petitioner and learned APP
for the State through virtual mode.

Counsel for the petitioner is directed to remove the defect(s), as pointed out by the office, within a period of eight weeks.

This criminal revision has been preferred against the order dated 09.04.2021 passed by the Additional District & Sessions Judge I-cum-Special Judge, Kaimur at Bhabhua in A.C. Trial No.03/2021 arising out of Bhabhua P.S. case No.371/2020 registered for the offence under Section 377 of I.P.C. and Section 4 of POCSO Act, whereby he has refused the prayer for bail of the petitioner.

Prosecution case, in short, is that in the night of 17.06.2020 when the informant saw his son moaning in pain and asked about the reason for the same, the son of the informant (victim) informed him that while he was playing near his door, at 12:00 noon



on the same day one Arvind Kumar came and took him away to Rana's Garden by enticing him and committed unnatural offence with him.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 22.01.2021 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The petitioner is not named in the F.I.R. The informant is the father of the victim. He has not named the petitioner in the F.I.R. There is no eye witness to the alleged occurrence. Due to previous enmity, the petitioner has been made accused in the present case.

On behalf of the State, it is submitted that the petitioner is not named in the F.I.R. The statement of the victim has been recorded under Section 161 Cr.P.C. He has specifically named the petitioner, who has committed an offence under Section 377 I.P.C. with him. The medical examination report of the victim also indicates that there is red abrasion over the private part of the body of the victim boy. Further, from perusal of paragraph 56 of the case diary, it appears that due to mistake of fact the informant, instead of naming the petitioner in the F.I.R., has named one Arvind Kumar, who happens to be brother of the present petitioner.

The Probation Officer's report of the petitioner was called for by this Court. From perusal of the social investigation report, it



appears that the release of the petitioner will not be in his interest and shall defeat the ends of justice. Further, from the report it appears that the release of the petitioner will bring him in the association of criminals and anti social elements.

Considering the aforesaid facts coupled with the findings and observations of the said investigation report, I am not inclined to interfere with the order dated 09.04.2021 passed by the Additional District & Sessions Judge I-cum-Special Judge, Kaimur at Bhabhua in connection with A.C. Trial No.03/2021 arising out of Bhabhua P.S. case No.371/2020 registered for the offence under Section 377 of I.P.C. and Section 4 of POCSO Act.

The present revision application stands dismissed.

The court below is directed to take all necessary steps to expedite the trial since the petitioner is in custody for the last 11 months.

(Sudhir Singh, J)

Narendra/-

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