

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30105 of 2020

Arising Out of PS. Case No.-553 Year-2018 Thana- HILSA District- Nalanda

=====

Kailash Chauhan @ Kailash Kumar, Son of Chhotakun @ Chhotakun
Chauhan, Resident of Village- Mansa Bigha, P.S.- Hilsa, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

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

For the Opposite Party/s : Ms. Meena Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-01-2021 At the very outset, learned counsel for the petitioner submits that due to typographical error of inadvertence, instead of Hilsa P.S. Case No.99 of 2018, the same has wrongly been typed as Hilsa P.S. Case No.98 of 2018.

In view of the said submission, based on Annexure 2 (copy of the chargesheet filed in Hilsa P.S. Case No.99 of 2018) this Court directs that in paragraph 7 of the petition, Hilsa P.S. Case No.98 of 2018 be read as Hilsa P.S. Case No.99 of 2018.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Hilsa P.S. Case No.553 of 2018 registered for the offence punishable under Section 354(A) of the Indian Penal Code and Section 8 of the Protection of Children from Sexual



Offence (POCSO) Act.

The prosecution case is that the petitioner along with co-accused Nitish Chauhan came to the house of the informant, who claims to be minor and it is alleged that the petitioner caught her from behind with bad intention. On noise being raised, it is alleged that the petitioner and the said co-accused have fled away.

Petitioner's counsel submits that even as per the allegations made in the F.I.R., offences under Section 8 of the POCSO Act would not be made out against the petitioner. Further submission is that the sister of co-accused Nitish Chauhan had earlier filed Hilsa P.S. Case No.99 of 2018 alleging offences under Sections 498A etc. against the brother, father, mother and other family members of the informant. The petitioner is a charge-sheet witness in the said case as is apparent from Annexure 2. It is under such circumstances that the petitioner (cousin uncle of the informant of the said case) has falsely been implicated in this case. The petitioner has no criminal antecedents.

Learned APP for the State has opposed the prayer for pre-arrest bail. It is submitted that the petitioner is an accused of the offences under the POCSO Act.



Considering the rival submissions, this Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge Cum Special Judge, POCSO, Nalanda at Biharsharif, in connection with Hilsa P.S. Case No.553 of 2018, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings



regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

