

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31666 of 2020

Arising Out of PS. Case No.-31 Year-2019 Thana- ISHIPUR District- Bhagalpur

Raj Kumar Sah, about 24 years, Male, Son of Banarsi Sah, Resident of
Village- Chhoti Pasahichak, Rijatpur, Police Station- Ishipur Barahat, District-
Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gopal Prasad Roy, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Gopal Prasad Roy, learned counsel for the petitioner and Mr. Shyam Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Ishipur Barahat PS Case No. 31 of 2019 dated 03.04.2019, instituted under Sections 141/354/494/ of the Indian Penal Code and 5/11(i) of the Protection of Children from Sexual Offences



Act, 2012.

4. The allegation against the petitioner in the FIR, which was converted from a complaint case, is that, along with the other co-accused, used to tease the complainant/informant while going to school and tried to outrage her modesty while going for the call of nature in the field as also non-specific and general that all accused persons came and got the work of soil cutting stopped and had assaulted. There is specific allegation against accused no. 5 at paragraph no. 6 of the complaint, though the name disclosed is Dwarika Yadav, which has been cut and the name of petitioner written in the column of accused, is of getting the villagers to fight among themselves and later abuse them financially and physically.

5. Learned counsel for the petitioner submitted that there is absolutely no allegation, much less, specific against the petitioner and in fact, in the original typed copy of the complaint filed before the Chief Judicial Magistrate, Bhagalpur accused no. 5 was one Dwarika Yadav whose name has been struck off and that of the petitioner written in hand, but at paragraph no. 6 of the complaint the name of Dwarika Yadav is written as accused no. 5. It was submitted that neither there are any details as to what role was played by the petitioner and how he was



involved in the incident and as to why his name has been introduced by way of cutting the name Dwarika Yadav, which is proof of the case being patently false against the petitioner. Learned counsel submitted that the petitioner has no other criminal antecedent.

6. Learned APP submitted that the petitioner was also party to the assault. However, he could not controvert that his name has been introduced after striking the name of Dwarika Yadav and further that no specific act has been alleged against him.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, POCSO Court, Bhagalpur, that is, Additional District and Sessions Judge-II, Bhagalpur in Ishipur Barahat PS Case No. 31 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner and the



bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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