

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3169 of 2021**

Arising Out of PS. Case No.-88 Year-2021 Thana- BHAGWANPUR District- Begusarai

SHIVAM KUMAR @ MANGLESH KUMAR, S/O SRI VINOD KUMAR
SINGH, R/o village- Khanjhapur Pali, P.S.- Bhagwanpur, District- Begusarai

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Suresh Kumar Ishwar, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 21-09-2021 Heard learned counsel for the appellant and Mr.
Sadanand Paswan, learned Special P.P. for the State.

The appellant in the present case is seeking setting aside of the order dated 18.06.2021 passed in A.B.P. No. 688 of 2021 corresponding to Bhagwanpur P.S. Case No. 88 of 2021 (POCSO Case No. 31 of 2021) registered for the offence punishable under Sections 341, 323, 354(B) and 504 of the Indian Penal Code, Sections 3(i)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act and Section 8 of the POCSO Act by learned Additional Sessions Judge VI-cum-Special Judge (POCSO Act), Begusarai whereby and whereunder the prayer for regular bail of the appellant has been rejected. He is in custody since 23.04.2021. The appellant has got no criminal

antecedent.

As per the First Information Report lodged by the mother of the victim girl, when the victim girl had gone to meet her natural call, this appellant had tried to outrage her modesty but while he was trying to tease her, she shouted whereupon the informant and others ran towards that and after finding the protest the appellant fled away. It is alleged that he was abusing the informant in her caste name.

Learned counsel for the appellant submits that it is a case of false implication of the appellant. In her 164 Cr.P.C. statement the victim girl does not talk about presence of either the informant or any of the co-villagers on her shouting rather she says that she fled away.

Learned counsel further submits that in paragraph '14' of the petition the appellant has specifically pleaded that he is a student and has been implicated in this case because the appellant's brother Raj Kumar is a witness in an earlier case filed by Shiv Nandan Paswan against the appellant's cousin brother Sairab Kumar and Sonu Kumar son of Abhay Singh vide Bhagwanpur P.S. Case No. 190 of 2020 due to enmity with the family member of the appellant and the informant's family, the appellant has been implicated in this case.

Mr. Sadanand Paswan, learned Special P.P. for the State has opposed the prayer for bail of the appellant. Learned Special P.P. has read out the statements recorded under Section 164 Cr.P.C. from which it appears that according to the victim girl when the appellant approached her while she was going to meet the call of nature, he asked her as to who was she whereupon the victim girl replied that how does he is concerned with her, thereafter he tried to place his hands on her mouth but the victim girl fled away.

Considering the facts and circumstances of the case and the kind of materials as also the 164 Cr.P.C. statements of the victim girl giving an impression that neither the appellant knew her nor the victim knew the appellant whereas both are the co-villagers and further the specific submission as contained in paragraph '14' of the petition, at this stage when the appellant has already remained in judicial custody for five months and the investigation against him is complete, this Court sets-aside the impugned order and directs release of the appellant above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge VI-cum-Special Judge (POCSO Act), Begusarai in

connection with A.B.P. No. 688 of 2021 corresponding to Bhagwanpur P.S. Case No. 88 of 2021 (POCSO Case No. 31 of 2021), subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that after release on bail, the appellant shall not come in contact with the informant/victim and her family during trial and violation of this condition shall invite action towards cancellation of bail.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.