

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.36295 of 2020**

Arising Out of PS. Case No.-142 Year-2019 Thana- BHITAHA District- West Champaran

Naushad Alam @ Naushad Gaddi, S/O Khursheed Gaddi @ Gajraj Gaddi,
R/O Village - Hira Soti, P.S. - Bhitaha, District - West Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary No. 1, A.P.P.

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

6 23-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Sanjay Kumar Tiwary No. 1, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Bhitaha P.S. Case No. 142 of 2019 registered for the offence punishable under Section 302, 201/34 of the Indian Penal Code.

As per the prosecution story, this petitioner was calling the informant on her phone and used to tease her. It is alleged that in the night of 01.12.2019 the petitioner had called the informant on her mobile and told her to establish contact



with him. The informant had scolded the petitioner but it is alleged that the petitioner threatened the informant of dire consequence.

On 01.12.2019 night there was a Dawat in the house of one Sahadi Miyan on the occasion of marriage where the son of the informant aged about twelve years had gone to attend and after taking meal went to see film on projector but did not come to his house. Next morning his dead body was found lying in the sugarcane field.

Learned counsel submits that there is no eye witness to the alleged occurrence. Sahadi Miyan at whose house the informant's son had gone to attend the Dawat has been investigated by the I.O., he had not seen the victim boy in the Dawat.

Learned counsel further submits that the informant had never lodged the First Information Report against the petitioner alleging that the petitioner used to tease her and for the first time the allegation has been made in the present F.I.R.

Learned counsel for the petitioner submits that the whole case of the prosecution is based on mere suspicion as no witness has come forward to say that the victim boy was seen in



the company of this petitioner during the said night. The petitioner has a fair antecedent. He is in custody in connection with this case since 06.12.2019 but till date only chargesheet has been filed and the trial is not likely to take place in near future. It is submitted that no incriminating material has been recovered from the house of the petitioner save and except one mobile phone which has been planted and recovery has been shown.

Mr. Sanjay Kumar Tiwary No. 1, learned A.P.P. for the State has gone through the case diary. On the query made by this Court, learned A.P.P. has informed that in the whole case diary there is no witness saying that the petitioner was seen with the victim boy. He has submitted that in paragraph '15' the statement of Sahadi Miyan has been recorded who has stated that he had not seen the victim boy on the occasion of Dawat in his house. It is further informed that no incriminating material has been recovered from the house of the petitioner save and except one mobile phone which is said to be that of the informant.

Considering the facts and circumstances of the case, having noticed that there is no eye witness to this occurrence and Sahadi Miyan has denied the presence of the victim boy in his house on the occasion of Dawat and there is no witness



saying that he had seen the victim boy with this petitioner on the alleged date of occurrence, the petitioner has remained in custody for one year eight months approximately but the trial is not likely to take place in near future, this Court directs release of the petitioner 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 A.C.J.M. 1st , Bagaha, West Champaran in connection with Bhitaha P.S. Case No. 142 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage



it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

