

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.326 of 2021**

Arising Out of PS. Case No.-59 Year-2020 Thana- BALTHAR District- West Champaran

AHMAD ALI Son of Sheikh Rfakat Resident of Purainiya, P.S.- Balthar,
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.Mithilesh Kumar Khare,APP

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

3 06-04-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

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

The petitioner in the present case is seeking regular bail in connection with Balthar P.S. Case No. 59 of 2020 registered for the offences punishable under Sections 366A, 380/34 of the Indian Penal Code and Section 8/14 of POCSO Act.

Learned counsel for the petitioner submits that as per the prosecution story, on 04.07.2020 when the informant returned to his home at about 06:00 P.M. and he was taking dinner with other members of the family, he had seen his *natni* (daughter's daughter) sitting at the door. When the informant came out after taking dinner and called his *natni*, she did not respond. At this stage, the nephew of



the informant told him that he had seen the victim girl going with this petitioner who is aged about 18 years on a motorcycle towards the Southern side. Two other named persons were sitting on the motorcycle. The informant also alleges that his *natni* had left the house with some ornaments and cash amount.

Learned counsel submits that apparently from a reading of the FIR itself it would appear that the victim girl had left her house with ornaments and cash on her own and she had accompanied the petitioner on her own volition which was also seen by nephew of the informant. The victim girl had not shouted for any help.

Learned counsel further submits that the petitioner has been described aged about 18 years in the FIR itself which shows that the victim girl as well as the petitioner are in teenage and it may be a case of love affair between the two teenage child.

Learned counsel further submits that the victim girl was recovered by police on the same day during night hours and at this stage when her statement was recorded in the case diary, it is alleged that she was being taken away forcibly, however, the victim girl has not made any allegation of commission of indecent act much less any sexual assault by this petitioner. The medical examination report has also not revealed anything wrong committed with the victim girl.

In the aforesaid circumstances, learned counsel submits that considering the peculiar facts of the case, perhaps it will be an issue whether the intention of the POCSO Act is to prosecute the



teenage boy who are well covered within the definition of child and where the offence alleged seems to have been committed because of the premature age of the victim as well as of the accused.

Learned APP for the State has opposed the prayer for bail of the petitioner but it is not disputed that in her statement, the victim girl has not alleged anything in the nature of indecent act committed by the petitioner.

Having regard to the facts and circumstances of the case and the nature of the materials noticed hereinabove and considering the age of the petitioner as well, this Court directs release of the petitioner 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 VII cum Special Judge, POCSO, Bettiah, West Champaran in connection with Balthar P.S. Case No. 59 of 2020, 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.

The application 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'.

