

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 853 of 2021

Arising Out of PS. Case No.-236 Year-2020 Thana- RAFIGANJ District- Aurangabad

SHASHI YADAV S/o ARJUN SINGH @ ARJUN YADAV Resident of
Village - Pachariya, P.S. - Rafiganj, District - Aurangabad (Bihar)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Krishna Prasad Singh, Sr Advocate with
Mr Rakesh Singh, Advocate

For the Opposite Party/s : Ms Nirmala Kumari, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

5 16-04-2021

In view of sudden surge of COVID – 19 infection, there is limited functioning of the Court and, therefore, the matter has been listed today for consideration through Virtual Mode.

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

The petitioner seeks bail in Rafiganj Police Station (for brevity, *PS*) Case No 236 of 2020 instituted for the offence punishable under Sections 341, 504, 506, 448, 354/34 of Indian Penal Code and Section 12 of Protection of Children from Sexual Offences (for brevity, *POCSO*) Act.

There is allegation in the First Information Report (for brevity, *FIR*) that on 21.09.2020, the petitioner along with four other persons has come to the informant's house and misbehaved and abused the inmates. The cause for the action is stated to be that on 18.09.2020, while the informant's grand



daughter was on way, she was teased by the accused persons who also have taken her photographs. Since the informant had objected to this, the allegation is that the petitioner has come to the house with the intention of taking away his grand daughter.

The learned senior counsel for the petitioner submits that the petitioner has no criminal antecedent. The prosecution case, emanating from the FIR, is self contradictory. In the first part, it is stated that petitioner has come with four persons. In the end of the FIR, informant has stated that the petitioner had come and was apprehended with the help of local persons. Submission is that though it is alleged that he was apprehended by the informant on 21.09.2020 itself, he was handed over to the police at least one day later. The allegation of having taken photographs is not corroborated as no such photograph was found in petitioner's mobile phone which was seized. Since the informant is a retired Assistant Sub Inspector of Police, he has used his influence to falsely implicate the petitioner to settle land dispute. The petitioner, under such circumstances, is in custody since 23.09.2020.

Learned APP has opposed the prayer for bail. It is submitted that the petitioner is named accused and there is allegation of harassing the minor grand daughter of the



informant.

In view of the aforesaid circumstances, prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge VI -cum- Exclusive Judge (POCSO), Aurangabad in Rafiganj PS Case No 236 of 2020 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.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-



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