IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.7137 of 2021

Arising Out of PS. Case No.-64 Year-2019 Thana- KHANPURA District- Samastipur

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PAPPU SHARMA Son of Baleshwar Sharma Resident of Khairi Kharaj, P.S.- Khanpur, District-Samastipur.

... ... Petitioner

Versus

THE STATE OF BIHAR

... ... Opposite Party

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Appearance :
For the Petitioner/s : Mr. Jagdish Prasad Singh, Advocate
For the Opposite Party/s : Mr. Narendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 06-07-2021 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. Narendra Kumar Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Khanpur P.S. Case No. 64 of 2019 registered for the offences punishable under Sections 341, 323, 366(A), 506, 376(A) (B) of the Indian Penal Code and Section 4 of the POCSO Act and Section 3(1) (r), (s), (w), (i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner submits that on

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perusal of the First Information Report it would appear that the victim had allegedly been forced to board on a train with this petitioner on 22.05.2019. She claims that her own uncles had forcibly took her and had made her to board with this petitioner who took her to Delhi and she went to Punjab where she was assaulted and the allegation is that the petitioner had committed rape upon her. Learned counsel submits that in her 164 Cr. P.C. statement the victim girl does not claim that the petitioner had committed any rape. Further, it is pointed out that in the medical examination, the victim girl has been assessed aged about 16-17 years, this petitioner is said to be aged about 20 years and submission is that the manner in which the victim girl went with this petitioner on train without raising any hue and cry and then her family members did not report it to the police station for about five days which only suggest that it was a case of love affair in the immature age between the petitioner and the victim girl, however, at this stage she has been making allegations with an intention to falsely implicate her uncles and this petitioner.

Learned counsel has taken this Court through the medical examination report and according to the medical examination report also no definite opinion about commission of rape could be made out.

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Learned counsel submits that considering the immature age of the petitioner though the petitioner is major legally but considering his age as twenty years and age of the victim girl being 16-20 years and the other factors which have transpired in this case as also that the petitioner has remained in jail in connection with the present case since 06.10.2020, investigation against him is complete and he has otherwise no criminal antecedent, he may be enlarged on bail.

On the other hand, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. He has submitted that the victim girl returned after five days and then she has lodged the F.I.R. in which she has made allegation of rape.

Having regard to the facts and circumstances of the case wherein this court has noticed that according to the victim girl she was sent with this petitioner by her own uncles forcibly on 22.05.2020, she went on the train but then she did not raise any hue and cry and she stayed with the petitioner for about five days, in the meantime her family members did not report about her missing to the police station, after five days she returned and then the F.I.R. has been lodged but in her Section 164 Cr. P.C. statement she is not talking about commission of rape and

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further the medical examination report is not suggesting any definite opinion about rape, her age is 16-17 years whereas the age of the petitioner is about 20 years, as stated in the petition, considering all these aspects of the matter and that the petitioner has remained in jail since 06.10.2020, investigation against him is complete but the trial is not likely to be concluded in near future, let the petitioner above named be released on bail on furnishing of 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 Sesions Judge-VI-cum-Special Court (POCSO) Samastipur in connection with Khanpur P.S. Case No. 64 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

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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.

This 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'.

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