

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL MISCELLANEOUS No.7161 of 2021**

Arising Out of PS. Case No.-272 Year-2018 Thana- MAHNAR District- Vaishali

MD. AFROJ S/o Moin R/o Village- Mahmadpur, P.O. - Parmanandpur, P.S.-  
Manhar, District- Vaishali at Hajpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

|                          |   |                                      |
|--------------------------|---|--------------------------------------|
| For the Petitioner/s     | : | Mr. Bakshi S.R.P.Sinha, Sr. Advocate |
|                          | : | Mr. Prem Ranjan Kumar, Advocate      |
| For the Opposite Party/s | : | Mr. Ajeet Kumar, APP                 |

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

6      16-08-2021                      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 Mr. Bakshi S.R.P. Sinha, learned senior counsel for the petitioner assisted by Mr. Prem Ranjan Kumar, learned counsel for the petitioner and learned A.P.P. for the State as also Mr. Ali Hussain, Investigating Officer of this case.

Petitioner in the present case is seeking regular bail in connection with Mahnar P.S. Case No. 272 of 2018 registered for the offences punishable under Sections 366 and 367 of the Indian Penal Code. He is in custody since 04.09.2020.

Learned senior counsel for the petitioner submits that as per the First Information Report, the daughter of the

informant who was major and whose admitted age declared in the F.I.R. is eighteen years was going with the informant to her maternal uncle's place. It is alleged that as they were moving on the Trimukhi Road between Jalalpur and Mahmadpur, this petitioner along with one unknown person came on motorcycle (Glamour), pressed the mouth of the daughter of the informant and took her away on his motorcycle. The informant further claims that she raised her voice but because it was a lonely place, therefore nobody came to rescue. She apprehended that any wrong can be done with her daughter. The informant has tried to explain the delay in lodging of the F.I.R. by saying that she had tried to recover her daughter with the help of the co-villagers but could not succeed, therefore there had been some delay in lodging of F.I.R.

Learned senior counsel submits that it is a case of false implication of the petitioner because the mother of the petitioner had contested election for Panchayat Samiti in Mahmadpur Panchayat and got elected while the rival candidate who is the neighbour of the informant lost and on her instigation, this case has been lodged against the petitioner.

Learned senior counsel points out that the occurrence is of 29.09.2018 at 11.00 am but it has been reported to the

police only on 04.10.2018. There is a delay of five days in lodging of the F.I.R. which may be said to be an inordinate delay considering the nature of the offences alleged. It is his submission that no reasonable person can wait for six-seven days before reporting the matter to police, had the manner of occurrence been true.

Learned senior counsel further submits that in course of investigation no material has been brought against the petitioner. The learned Additional Sessions Judge-V, Vaishali has rejected the prayer for bail of the petitioner by misconstruing the materials disclosed in paragraph '35' of the case diary wherein certain call details of three mobile numbers are mentioned. Learned counsel submits that there is nothing to indicate that any of the mobile number belong to this petitioner.

In fact considering the submission of learned senior counsel for the petitioner as regards the materials with regard to the mobile numbers, this Court called for updated case diary of the case and directed the I.O. of this case to get connect online with the Court proceedings to throw some clarity.

Today, learned A.P.P. for the State as well as the I.O. of the case are connected. In course of query made by this Court, the I.O. has informed that in this case the three mobile

numbers of which C.D.R. have been taken are 7888733592 which is in the name of one Khushbu, 8427807743 in the name of Tribhuvan and 7762094398 in the name of Chinta Devi. Chinta Devi is the informant in this case and her husband's name is Tribhuvan. According to the I.O. it has been noticed that from mobile number 7888733592 calls have been made on the number of Tribhuvan on 29.05.2018, 26.09.2018, 29.09.2018 and 30.09.2018. On the alleged date of occurrence five calls were made from this number to the number of Tribhuvan and after the date of occurrence ten calls have been made. When this Court called upon the I.O. to explain as to who is this 'Khushbu' and whether any investigation has been done on the point that the mobile number which is in the name of Khushbu was possessed by this petitioner and this petitioner was talking to the father of the victim even after the alleged occurrence, the I.O. says that there is no such material in the case diary.

The I.O. has further informed this Court that all other witnesses in the case diary are hearsay witnesses.

Considering the facts and circumstances of the case, the delay in lodging of the F.I.R. and the other materials which have been brought to the notice of this Court, this Court having noticed that the petitioner is in custody in connection with this

case for almost one year and he had otherwise no criminal antecedent, investigation against him is complete, 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 Additional Chief Judicial Magistrate-VI, Vaishali at Hajipur in connection with Mahnar P.S. Case No. 272 of 2018 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.

This application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

Rishi/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

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’.