

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8980 of 2021**

Arising Out of PS. Case No.-18 Year-2020 Thana- JAGDISHPUR District- Bhagalpur

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SAMARJEET KUMAR SINGH @ SAMARJEET SINGH @ CHHOTU SON  
OF NARENDRA SINGH @ UDAY KANT SINGH VILLAGE  
BAGCHAPPAR, P.S.- SHAHKUND, DISTRICT- BHAGALPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sushil Kumar Jha, Adv.  
For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

4      26-07-2021                      In view of sudden resurgence of COVID-19 infection there is limited functioning of the High Court and therefore the matter has been listed for consideration through virtual mode.

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

This Court would expect that the petitioner's Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in Jagdishpur (Bypass TOP) P.S. Case No.18 of 2020 registered under Sections 342, 376, 504, 506, 34 of the IPC, Section of 4 POCSO Act and Section 66 of I.T. Act.



It is alleged by the informant that 3 to 4 years prior to lodging of the FIR, the petitioner being brother of her Jija has taken advantage of the informant and established physical relationship and recorded the same. The cause for lodging the FIR is that the petitioner has taken her away on some other pretext and forcibly solemnized marriage. The informant thereafter has narrated the entire facts to her parents. When her parents and other family member went to the petitioner's house, it is alleged that the family members have demanded four lacs rupees. The petitioner is also threatening the informant that he will make viral the obscene video recording of the occurrence which took place 3-4 years back.

Learned counsel for the petitioner submits that the date of birth of the petitioner as per Aadhar Card is 02.07.2000. On the date of FIR, she was at least 20 years old. To attract the provisions of POCSO Act, and abuse the said provision, she has narrated a false incident alleged to have taken place 3 to 4 years back. For these 3 to 4 years there is no information, complain or intimation in this regard nor is there any allegation in the FIR as to what prevented her from narrating the said incident during this period. Earlier the case diary has been called for. The parties have assisted the court on that basis. In the investigation (para-



90), the informant on being asked to produce the alleged obscene video has stated that she does not have the same. The fact that the informant and petitioner have solemnized marriage with consent two days prior to lodging of the FIR has also emerged in course of investigation. Para-102 is statement of the priest, who has stated about the informant and petitioner coming to the temple together and without any coercion requesting for solemnizing their marriage based on production of the Aadhar Card of the instant petitioner to support her being an adult. The submission is that all off a sudden the condition has turned hostile for some extraneous consideration. The father of the instant petitioner has also filed an affidavit stating that he is fully ready and willing to keep the informant at his home. The petitioner is in custody since 28.05.2020 in the aforesaid circumstance.

Learned APP has opposed the prayer for bail. He has submitted that informant has clearly stated about the petitioner taking undue advantage of the informant 3-4 years back and preparation of an obscene video of the entire incident.

Considering the rival submissions as also the facts and circumstances of the case, prayer for bail of the petitioner is allowed. Let the petitioner above named be released on bail on



furnishing bail bonds of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge, VIth, Bhagalpur -cum- Special Judge, POCSO Act in Jagdishpur (Bypass TOP) P.S. Case No.18 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.

**(Madhuresh Prasad, J)**

Prakash Narayan /-

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