

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 11044 of 2021

Arising Out of PS. Case No.-612 Year-2020 Thana- MADHEPURA District- Madhepura

SUSHIL KUMAR @ SUSHIL YADAV Son Of Surendra Yadav Resident Of
Village -Tokshipur (Itwa), P. S. - Gamharia, District - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Ranjan Kumar Dubey, Advocate

For the Opposite Party/s : Mr Yogendra Kumar, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-07-2021

This case has been taken up for consideration today
through Video Conferencing.

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

The petitioner seeks bail in Madhepura (Ghailarh)
Police Station (for brevity, *PS*) Case No 612 of 2020 dated
11.08.2020 instituted for the offence punishable under Sections
363, 366A of Indian Penal Code and Section 8 of Protection of
Children from Sexual Offences (for brevity, *POCSO*) Act.

The informant has alleged that his daughter, aged
about 16 years, was on way for studying when she has been
taken away by three persons including the petitioner. The
allegation is on the premise that the accused persons had come
to her house in the afternoon for tea and that this petitioner and
co-accused Bipin used to visit her house along with Uma



Shankar, truck driver who has employed the informant's son.

Learned counsel for the petitioner submits that even, as per First Information Report, informant is not an eye witness to the alleged occurrence and the petitioner's implication is based merely on suspicion. The petitioner, in fact, has no concern with the informant or the victim. The victim, after her recovery, has stated that she wanted to marry co-accused Uma Shankar but he refused to solemnize the marriage and that there is no allegation of any physical abuse or rape having been made against the petitioner. At best, there is allegation of taking away the informant's daughter. Co-accused Uma Shankar, against whom primary allegations have been made, has been taken in custody and there is no overt act alleged against the petitioner by the victim in her statement recorded under Section 164 of Criminal Procedure Code. The petitioner is in custody since 07.09.2020. The falsity of the allegation is further evident from the fact that allegations have been made belatedly. Offence is alleged to have been committed on 03.08.2020 whereas First Information Report has been lodged on 11.08.2020. There is one criminal antecedent of the petitioner in which he is on bail.

Learned APP has opposed the prayer for bail.



Considering the aforesaid, 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 Special Judge (POCSO), Madhepura in connection with Madhepura (Ghailarh) PS Case No 612 of 2020 dated 11.08.2020 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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