

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4341 of 2022

Arising Out of PS. Case No.-20 Year-2021 Thana- MAHILA P.S. District- Samastipur

Jivach Paswan @ Jibachha Paswan, Son of Ramjee Paswan, Resident of
Village- Kankhariya, Ward No.7, P.S.- Hathauri, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Advocate Mr. Kumar Satyam, Advocate
For the Opposite Party/s	:	Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 20-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Mahila P.S. Case No. 20 of 2021 registered for the alleged offences under Sections 323, 34, 341, 376(AB), 504 and 506 of the Indian Penal Code.

The prosecution case is that the nephew of the petitioner, a minor boy, committed rape on four year old minor daughter of the informant. During talks of compromise, this petitioner threatened the informant with her life if she disclosed



this fact to any one.

The learned counsel for the petitioner submits that the petitioner is innocent and it is clear from the FIR that he was in no way involved in the offence of rape which was allegedly committed by his nephew, who is also a minor. The learned counsel further submits that the charges have been framed in this case under Sections 17 and 21 of the POCSO Act against this petitioner, but it is clear from the FIR that no offence under Section 17 of the POCSO Act is made out as by no stretch of imagination, the petitioner is said to be an abettor. Further the punishment under Section 21 of the POCSO Act is only for six months and this petitioner has already spent about eight months in custody. If allegation of giving threat to the informant is taken to be true, it would be covered under the offence for criminal intimidation only. He is in custody since 23.11.2021.

Learned APP for the State submits that the petitioner threatened the informant to compromise the matter and not to talk about it to anyone.

Having regard to the submissions made hereinabove and considering the fact that the allegation against the petitioner is that of threatening the informant and there appears no other role of this petitioner in the alleged crime and



he is in custody since 23.11.2021, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Samastipur, in connection with Mahila P.S. Case No. 20 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) The petitioner will not in any way contact either the victim or any of the witnesses and will not try to influence the trial.
- (iv) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

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(Arun Kumar Jha, J)

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