

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2757 of 2022

Arising Out of PS. Case No.-118 Year-2021 Thana- BIHRA District- Saharsa

Manish Kumar, Son of Sudhir Yadav @ Maheshwari Yadav, R/O Village-
Laximinia, P.S.- Bihra, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajnish Kumar Singh, Advocate

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 16-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

A supplementary affidavit has been filed on behalf of
the petitioner which is taken on record.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with POCSO Case No. 28 of 2021 arising out of
Bihra P.S. Case No. 118 of 2021 registered for the alleged
offences under Sections 341, 342, 323, 354(B), 376, 511, 504,
506 and 34 of the Indian Penal Code and under Sections 6, 8,
10, 12 of the POCSO Act and Section 67(C) of I.T. Act.

As per prosecution case, the minor daughter of the
informant was called to the house of the petitioner by

co-accused on some false pretext. The daughter of the informant was subjected to sexual assault by the petitioner and other co-accused persons and obscene video of the daughter of the informant was prepared from the mobile of the petitioner. The daughter of the informant was threatened by the petitioner and other co-accused persons not to disclose the fact to anyone. Later on, the obscene video was uploaded and made viral on some local online group.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. From the F.I.R. it is apparent that the victim was brought to the house of the petitioner by co-accused Ashish Kumar but the petitioner was not present at his house and he was not aware about the occurrence. The occurrence took place on 10.06.2021 whereas the F.I.R. has been lodged on 03.07.2021. The real fact is that the petitioner is a student and due to local village politics, he has been made accused in this case to ruin his career. The alleged video was shot elsewhere but as an after thought the informant cooked a new story about the incident in the house of the petitioner. Learned counsel further submits that the Investigating Officer exonerated all other named co-accused persons while submitting the charge sheet. Learned counsel

further submits that the petitioner lost his mobile phone on 07.06.2021 and he informed the police by sending an application by way of speed post on 07.06.2021 itself while the occurrence is alleged to have taken place on 10.06.2021. Learned counsel further submits that the petitioner is a victim of circumstances and due to video being made viral from the number of petitioner's mobile phone, he has been implicated in this case under the influence of victim's family. Learned counsel also submits that the conduct of the victim is not believable. Other co-accused persons have been granted anticipatory bail by a Coordinate Bench vide order dated 26.07.2022 passed in Cr. Misc. No. 1434 of 2022. Charge sheet has been submitted in this case and the petitioner is in custody since 05.07.2021.

Learned APP for the State opposes the prayer for bail of the petitioner. However, he concedes that other co-accused persons have been granted bail with similar allegation.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the petitioner and considering the grant of anticipatory bail to other co-accused persons and also considering the period of custody along with submission of charge sheet of the petitioner, 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 District Judge, 1st-cum-Special Judge, POCSO Act, Saharsa in connection with POCSO Case No. 28 of 2021 arising out of Bihra P.S. Case No. 118 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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) In case of absence on 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.

(Arun Kumar Jha, J)

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