

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16077 of 2022

Arising Out of PS. Case No.-10 Year-2015 Thana- MAHILA PS District- Gaya

Lakshman Prasad @ Laxman Prasad S/O Late Deepchand Saw, Resident of village- Banji, P.S.- Mander, District- Ramgarh (Jharkhand).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 30-08-2022 Heard Mr. Krishna Prasad Singh, learned Senior Counsel appearing on behalf of the petitioner and Mr. Sanjay Kumar Tiwary, learned A.P.P. for the State.

The prosecution case, in brief, is that petitioner was posted as physical instructor in City Public School and in course of training, he took objectionable picture of the victim, who is student in the said school.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been implicated in this case on false accusation for committing offence under Sections 354 (C) and 379 of the Indian Penal Code, Section 11 of the POCSO Act and Section 66(A), 66(E), 67(A) and 67(B) of the I.T. Act. It is further submitted that in course of investigation no such material i.e. mobile phone containing objectionable picture has



been recovered by the Investigating Officer. It is further submitted that no incriminating article was recovered from the possession of the petitioner, which leads to disbelieve the statement of the victim recorded under Section 164 Cr.P.C. The said fact is supported by the statement of the victim recorded in course of investigation in paragraph No. 35 of the case diary. It is further submitted that on examination of the deposition of the informant, who is the victim, in course of trial, she has not supported the allegation made under Section 164 Cr.P.C. It is further submitted that trial has proceeded and almost all the witnesses have become hostile. The Chargesheet has already been submitted and the petitioner is in custody since 12.01.2021. In view of the statutory provision contained in Section 35 of the POCSO Act, a special Court is expected to complete the trial possible within a period of one year from the date of taking of the cognizance. In the present case, even after one year of taking of the cognizance, the trial has not been concluded till date. In the interest of justice, the petitioner against whom as would appear from the record the allegation made against him are prima facie not sustainable and on these grounds, the petitioner seeks to be released on bail.

Learned A.P.P. appearing on behalf of the State



vehemently opposed the prayer for grant of bail to the petitioner and submitted that there are materials which are come in course of trial, however, he has submitted that the victim herself has not supported the allegation in course of trial while she was examined by the trial Court.

Taking into consideration the nature of allegation and the materials, which has been brought in course of investigation as well as the evidence of the victim in course of trial shows that she has completely denied the allegations made in the F.I.R. as well as in her statement recorded under Section 164 Cr.P.C. The witnesses have also not supported the allegation made against the petitioner. There is no recovery of incriminate articles from the possession of the petitioner or from his house. Prima facie the petitioner has made out a case to be released on bail. However, since the trial has proceeded considerably, the learned trial Court is directed to conclude the trial well within a period of three months. The Superintendent of Police, Gaya is directed to produce all the remaining prosecution witnesses on the date fixed by the trial court without fail.

It is made clear that any observation made in the present order will not effect the merits of the case and trial shall proceed on its own merits.



With above observation, the application filed on
behalf of the petitioner stands disposed of.

(Purnendu Singh, J)

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