

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30699 of 2021

Arising Out of PS. Case No.-134 Year-2020 Thana- BASANTPUR District- Siwan

RESHMA KUMARI @ RESHAM KUMARI DAUGHTER OF DEWNATH MAHATO @ DEVNATH MAHTO, RESIDENT OF VILLAGE- BABHNAULI, P.S. BASANTPUR (LAKDI NABIGANJ O.P.), DISTRICT- SIWAN.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Prashant Kumar
For the State	:	Mr. Rajendra Pd. Nat
For the informant	:	Mr. Ajay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

5 18-05-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the State, assisted by the learned counsel for the informant.

The petitioner apprehends her arrest in connection with Basantpur P.S. Case No. 134/2020 registered for offence punishable under sections 366A, 504 of the Indian Penal Code and section 8 of the Prevention of Children from Sexual Offences Act.

As per allegation, when 15 years old daughter of the



informant went to attend the call of nature, meanwhile, his pattidar Ashutosh Kumar @ Arvind Kumar enticed her away. As per allegation, the family members of Ashutosh Kumar, including the petitioner, who is sister of Ashutosh Kumar, have also complicity in that occurrence.

The learned counsel for the petitioner has submitted that as per medical examination, the victim was not found minor, as such, the provisions of POCSO Act is not applicable. He has submitted further that the victim, in her statement under section 161 of the Code of Criminal Procedure (hereinafter referred to as 'the Code'), did not whisper the name of the present petitioner, but later on, in her statement under section 164 of the Code, she has named the petitioner. He has submitted further that in her statement under section 164 of the Code, she has named the present petitioner with a view of harass her, as she is sister of main accused Ashutosh Kumar and she is of marriageable age. The learned counsel has also submitted that the statement under section 164 of the Code has been recorded after forty days of the FIR.

The learned APP as well as the learned counsel for the informant has opposed the prayer for bail.

The victim although in her statement under section 164



of the Code has stated that the petitioner blindfolded the victim with a piece of cloth and thereafter, Ashutosh Kumar forcibly sitted her on his bike and took her away, but this fact has not come in her statement under section 161 of the Code. The petitioner has no criminal antecedent.

Considering the above-mentioned facts and circumstances, the petitioner above-named, in the event of her arrest or surrender, within four weeks from today, is directed to be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Siwan in connection with Basantpur P.S. Case No. 134/2020, subject to condition as laid down under section 438(2) Cr. P.C.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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