

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28063 of 2022

Arising Out of PS. Case No.-221 Year-2022 Thana- HILSA District- Nalanda

Rajesh Kumar Son Of Shri Vijay Kumar Sharma R/O- Arya Samaj Road,
Hilsa, P.O. And P.S.- Hilsa And District- Nalanda

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Avinash Chandra, Advocate

For the Opposite Party/s : Mr.Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 30-09-2022 Heard learned counsel for the petitioner, learned
APP for the State as also learned counsel for the informant
through video conferencing in view of the COVID 19.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Hilsa P.S. Case No. 221 of 2022 for the offences under
Section 67 of I.T. Act and Section 12 of POCSO Act.

As per the allegation in the FIR, the victim girl has
alleged that in 2018, she had gone to visit a particular school for
summer camp where the petitioner was posted as Dance
Teacher. He managed to take her mobile number and thereafter
started sending messages to her. When she chose not to respond
to him, he posted indecent messages on the Face-Book and also



sent indecent messages on her mobile. Disturbed by the activity of the petitioner, the victim girl left the place and went to Chandigarh but when she came back during 'Holi' festival, again the petitioner started doing the same forcing her to lodge the FIR.

In this case, case diary was called for on 25.8.2022 which has since been received.

The counsel for the informant has also filed a counter-affidavit.

Learned counsel for the petitioner in extension of the submission made on 25.8.2022 has reiterated that although the allegation against him is of posting indecent messages on the Facebook as also sending those on the mobile, surprisingly, no mobile number has been brought on record. It is his further submission that in absence of the number of the mobile showing it to be of the petitioner and/or of his family member, the allegation against him of sending indecent message clearly shows that the same has been exaggerated. He further submits that the petitioner do not have any criminal antecedent and is in custody since 31.3.2022 (as stated in para-11 of the bail application).

Per contra, learned counsel for the informant submits



that a bare perusal of the documents/photos that has been made part of the counter-affidavit would show what kind of person the petitioner is and how he has tried to denigrate the image of the victim girl in the eyes of the society and as such he does not deserve bail.

In reply, learned counsel for the petitioner submits that the said attachment/photos that has been made part of the counter-affidavit is actually of the married sister of the victim girl for which her husband who also happens to be Chief Executive Officer of the company, has already lodged a case vide Patrakar Nagar P.S. Case No. 158 of 2022 on 30.3.2022 against one Santosh Kumar and not this petitioner.

Learned APP, Mr. Bharat Bhushan submits that the petitioner claims to be a dance teacher but there is no certificate to support that claim put forward by him.

Considering the rival submissions put forward by the counsel for the petitioner, informant as also the State, this Court, considering the fact that the petitioner is in custody since 31.3.2022 (as stated in para-11 of the bail application), he do not have criminal antecedent, so far as the photographs that has been made part of the counter affidavit, another case vide Patrakar Nagar P.S. Case No. 158 of 2022 has already been



lodged against one Santosh Kumar, there is absence of mobile number which could have clarified whether the petitioner sent the messages, charge-sheet stands submitted, this Court is inclined to grant him the privilege of bail subject to conditions considering the allegations that forms part of the FIR.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge, VII-cum-Special Judge, POCSO, Bihar Sharif, Nalanda, in connection with Hilsa P.S. Case No. 221 of 2022 subject to the following conditions:-

(i) one of the bailor should be the mother and father of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or



promise or threat the witnesses or tamper with the evidences,
failing which the State shall be at liberty to take steps for
cancellation of the bail bonds;

(v) the petitioner shall desist from committing any
criminal offence again, failing which the State shall be at liberty
to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

Ravi/Ajay Singh

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