

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44125 of 2021

Arising Out of PS. Case No.-44 Year-2021 Thana- DHANAHAN District- West Champaran

NURSHAD ANSARI @ NURMAD ANSARI, Son of Mustak Ansari
Resident of Village - Khalwapatti, P.S.- Dhanaha, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 19-05-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two weeks of the complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with Dhanaha P. S. Case No. 44 of 2021 for the offences punishable under Sections 376 and 511 of the Indian Penal Code and Section 8 of the POCSO Act, 2012.

The prosecution case, in brief, is that the petitioner had slapped the victim girl while she was plucking vegetables and tried to assault her sexually.

Shri Bimlesh Kumar Pandey, learned advocate for the petitioner submits that from the very perusal of the F.I.R., no



case is made out against the petitioner and due to vengeance, the informant has dragged him in a false case on the allegation that the present petitioner had tried to commit sexual assault with the victim, who is aged about 7 years. He further submits that by filing supplementary affidavit, he has brought on record the evidence of the victim girl who has deposed that the petitioner has not sexually assaulted her; rather he had slapped her on the day of occurrence. It is specific submission of the Shri Pandey that in this particular case, the POCSO Act has been misused. The very object with which this Act was enacted has been frustrated and a poor man who has not committed such offence has been put behind the bar for more than one year. The petitioner is in custody since 24.02.2021.

Mr. Randhir Kumar No. 1, learned counsel for the informant submits that, however, the victim has not made allegation of any sexual assault which has been committed by the petitioner but the allegation against the petitioner is of serious nature that he had scolded the small child and had slapped her and put her in great fear and for such act, the petitioner do not deserve to be released on bail.

Shri Ajit Kumar, learned APP for the State has supported the allegation made in the F.I.R. and has also



vehemently opposed the prayer for grant of bail to the petitioner.

Having heard the rival submissions of the parties; perused the allegation levelled in the F.I.R.; the statement of the victim girl recorded under Section 164 Cr.P.C.; and evidence of the victim, it appears that the victim is aged about 7 years and the petitioner has taken her to task for plucking and damaging the vegetables planted in his land and he has also used filthy language and put her in great fear.

However, after going through the allegations and the statement recorded under Section 164 Cr.P.C. and the evidence of the victim girl which has been brought on record by way of supplementary affidavit, it *prima facie* appears that the victim has not made any allegation that the petitioner has assaulted her sexually.

Considering the aforementioned facts and circumstances of the case, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge 7th cum Special Judge, Bettiah, West Champaran, in connection with Dhanaha P. S. Case No. 44 of 2021, subject to the following conditions:-



(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(5) The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in paragraph No. 3 of the bail application, this order will automatically loose its force.

(6) The petitioner will make his attendance before the concerned Police Station under which his house is located every fortnight till conclusion of the trial and on any single default without any valid reasons on the part of the petitioner, his bail bonds shall be cancelled and the concerned SHO of the Police Station shall submit his



**monthly attendance report to the Superintendent of Police
having jurisdiction.**

(Purnendu Singh, J)

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