

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35838 of 2022

Arising Out of PS. Case No.-309 Year-2021 Thana- CHANPATIA District- West Champaran

Sanjay Kumar Son Of Anil Mahto, Resident of Village- Sabeya Khurd, P.S.-
Chanpatiya (Sirisiya O.P.) , District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate Ms. Anjali Kumari, Advocate
For the Informant	:	Mr. Rishabh Mishra, Advocate Mr. Krishna Murari, Advocate
For the Opposite Party/s	:	Mr. Raj Kishore Singh, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 20-09-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

The petitioner seeks regular bail in connection with
Chanpatiya (Sirisiya O.P.) P.S. Case No. 309 of 2021 lodged
under Sections 376(D)(A)/34 of Indian Penal Code, under
section 4 and 6 of POCSO Act, under Section 81 of J.J.B. Act
and 67(A) (B) of the I.T. Act.

The allegation of 376(D)(A)/34 read with Sections 4
and 6 of POCSO Act, read with Section 81 of J.J.B Act and read
with section 67(A)(B) of the I.T. Act is there in the F.I.R.

Learned counsel for the petitioner submits that vide Annexure-3 (series) the Co-ordinate Bench of this Court has passed a reasoned order in this case in which personal appearance of Superintendent of Police was also made for wrong investigation and action has also taken against the Investigating Officer of this case. He further submits that the allegation of rape is out and out false. The alleged recording made in the pen-drive was personally observed by the Co-ordinate Bench of this Court and thereafter bail has been granted to accused Dheeraj Mahto. Learned counsel for the petitioner further submits that the other co-accused persons Anil Mahto and Raju Mahto of this case have also been granted bail by the Co-ordinate Bench of this Court vide order dated 20.07.2022 passed in Cr. Misc. Nos. 50946 of 2021 and 57661 of 2021 respectively. Learned counsel further submits that petitioner is in custody since 28.12.2021 having clean antecedent and charge sheet has already been filed in this case.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that the present petitioner is the person who has prepared the video clip and at least offence under Section 67 of the I.T. Act is made out against him in which punishment for first offence is 5 years.

Learned counsel for the petitioner submits that petitioner is in custody since 28.12.2021 and 9 months have already lapsed.

Learned counsel for the State opposes the prayer for bail.

In the present facts and circumstances of the case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. District & Sessions Judge-VI-cum- Special Judge, West Champaran at Bettiah in connection with Chanpatiya (Sirisiya O.P.) P.S. Case No. 309 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file an affidavit before the court about his relationship with the petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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