

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34894 of 2022

Arising Out of PS. Case No.-452 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

Ramji Mishra @ Perbhaujan Mishra, S/O- Udaybhan Mishra, R/O- Vill-
Dhanoti (PADHRIYA), P.S.- Kateya Dist.-GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vishwajeet Kumar Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 14-10-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Kuchaikote P.S. Case No. 452 of 2021
registered for the alleged offences under Section 377 of the
Indian Penal Code and Sections 4 and 6 of the POCSO Act.

As per prosecution case, the five years old son of the
informant went missing and on search the informant recovered
him from the roof top of a temple and this petitioner was found
engaged in committing unnatural sex with the son of the
informant. Further allegation against the petitioner is that he put
a finger in the anus of the child.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case due to previous enmity between the parties. The informant is a liquor supplier and he had asked the grand-father of the petitioner who is the priest of the said temple to allow him to use the temple for hiding the liquor but the same was refused by the grand-father of the petitioner. Due to this reason hot argument and scuffle took place between the parties and the petitioner and his grand-father were assaulted a number of times by the informant. Learned counsel further submits that in the medical report, no signs of unnatural sexual abuse of any kind and no internal or external injury on the body of the child were found. This shows the falsity of the accusation. Under these circumstances no offence under Section 377 of IPC as well as Sections 4 and 6 of the POCSO Act would be made out against the petitioner. The petitioner is in custody since 28.10.2021 and the charge-sheet has been submitted in this case. The petitioner has got clean antecedent.

Learned APP opposes the prayer for bail.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that medical report does not show any sign of sexual assault



or unnatural offence and further considering the clean antecedent of the petitioner along with his period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-VIth-cum-Special Judge, POCSO, Gopalganj in connection with Kuchaikote P.S. Case No. 452 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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