

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49977 of 2021

Arising Out of PS. Case No.-25 Year-2021 Thana- BHAWANIPUR District- Purnia

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Amit Kumar S/O Late Dipak Sharma R/O Village-Singhiyan Sundar, P.S-
Bhawanipur, District-Purnea.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar

For the Opposite Party/s : Mr. Ramchandra Singh

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 01-02-2022 Heard learned counsel for the petitioner and

learned APP for the State through video conferencing.

The petitioner seeks bail in connection with
Special (POCSO) Case No.24 of 2021 arising out of
Bhawanipur P. S. Case No.25 of 2021, instituted for the
offences under Section 376 of the Indian Penal Code and
Sections 4 and 6 of the POCSO Act, 2012.

The learned counsel for the petitioner submits that
the petitioner is in custody since 14.02.2021, he is a person
with clean antecedent and charge-sheet has been submitted
in the case.

The learned counsel for the petitioner submits that
the informant, a minor, alleges that she had gone to see a



programme in the village on 12.02.2021, as her parents at 10.00 P.M. had gone to the Basa for tying the cattles. It is further alleged that while she was returning after seeing the programme to her house, the petitioner forcibly intercepted her and took her to desolated place and committed rape and on scream of the informant, her parents and villagers came and the accused/ petitioner fled from the place of occurrence.

The learned counsel for the petitioner submits that there is a very famous saying *“if you speak the truth, you do not have to remember what you said”*. The learned counsel further submits that petitioner and the victim were in love and taking advantage of the fact that informant’s parents were not at home, the informant went to meet the petitioner and when the parents came all of a sudden along with some villagers and saw both of them, then the present false case of rape came to be instituted which is also evident from the fact that injury report completely negates the allegation of rape.

The learned counsel for the further submits that the statement of the victim was recorded under Section 164



of the Cr.P.C. which is at complete variance with the allegation alleged in the F.I.R., as the informant in her statement under Section 164 of the Cr.P.C. though stated that rape was committed, but at the same time, also stated that the petitioner was caught and his mother locked him in a room and then in the night, she fled with the petitioner, also that his younger brother was also with him and further that when her parents came the petitioner tried to hide himself under the bed.

The learned counsel thus submits that in the F.I.R., it is alleged that on coming of the parents and villagers, he fled but in her statement under Section 164 of the Cr.P.C., she alleges that petitioner after seeing her parents and villagers tried to hide himself under the bed then he was apprehended as he could not flee. Further that mother of the petitioner confined him in a room and thereafter, both petitioner and his mother along with brother fled in the night. This in itself demonstrates that the informant in a way has helped the petitioner by giving a different story in her statement under Section 164 of the Cr.P.C. and the doctor has assessed her age in between 16-17 years when there is



no documentary evidence on record to suggest that the informant was 13 years of age as recorded in the F.I.R. and in the statement under Section 164 of the Cr.P.C.

The learned counsel thus submits that if what the informant alleged in the F.I.R. was true then definitely in her statement under Section 164 of the Cr.P.C. she would not have given a different story and the fact that the injury report completely negates the prosecution case that in itself demonstrates that for the purposes of bail that the petitioner has been falsely implicated.

The learned A.P.P. for the State opposes the bail application.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in the case and the injury report negates the prosecution case and the statement of the informant under Section 164 of the Cr.P.C. is at variance with her allegation as alleged in the F.I.R., the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Additional Sessions Judge-7th-cum-Special Judge (POCSO), Purnea in connection with Special (POCSO) Case No.24 of 2021 arising out of Bhawanipur P. S. Case No.25 of 2021, with a condition that in the event, if the petitioner on two consecutive dates does not appear before the trial Court, the learned trial Court will forthwith cancel his bail bonds.

The application stands allowed.

(Satyavrat Verma, J)

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