

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51701 of 2021

Arising Out of PS. Case No.-41 Year-2021 Thana- MAINATAND District- West Champaran

Shahid @ Shahid Alam Son of Shekh Faiyaz @ Faiyza Sheikh Resident of
Village- Sukhlahi, P.S.- Mainatand, District- West Champaran at Bettiah.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Asif Kalim, Advocate.

For the Opposite Party/s : Mr. Mohammed Arif, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 06-07-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Asif Kalim, learned counsel for the petitioner and Mr. Mohammed Arif, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Mainatand P. S. Case No. 41 of 2021 registered for the offences punishable under Sections 341, 323, 379, 354(B), 504 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act and later on Section 302 of the Indian Penal Code has been added.

As per the prosecution case, it is alleged that on



30.03.2021, in the morning, while the daughter of the informant was going to attend the nature call, in the meantime, co-accused Shahid (petitioner) enticed her daughter. It is further alleged that the daughter of the informant told the entire episode whereupon, she along with the victim went to the house of Shahid thereupon, the accused persons started abusing and assaulting them.

Learned counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R., it is evident that except the allegation that he tried to entice the daughter of the informant, there is no specific allegation of assault against the petitioner moreover, the allegation of snatching earrings and gold is nothing but exaggeration. It is further submitted that the case of the prosecution has also not been corroborated by the post mortem report, which suggests only one bruise injury behind right ear, in as much as the cause of death remained kept pending till the report of chemical also analysis creating doubt. It is also submitted that during the course of investigation no independent witnesses have supported the prosecution story, in fact, it was a case of suicide and she was not died on account of assault made by the accused persons including the petitioner. It is further submitted that the



victim Sabaiya Khatoon is still alive and in support of his submission he has brought on record an information under Right to Information Act that the victim Sabaiya Khatoon has lifting her food grains for the month of May to July and September using her biometric finger print. It is next submitted that the petitioner, who is a young boy, aged about 18 years, is in custody since 12.04.2021, though after conclusion of investigation, the charge-sheet has been submitted and though charge has been framed against him but till date no witness has been examined and there is no likelihood of conclusion of trial in near future.

On the other hand, learned APP for the State opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the fact that the investigation is completed and the charge-sheet has been submitted, apart from the omnibus nature of allegation and moreover, the petitioner is in custody since 12.04.2021, having fair antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge VII-



cum-Special Judge, POCSO Act, West Champaran, Bettiah in connection with Mainatand P. S. Case No. 41 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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