

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60871 of 2021

Arising Out of PS. Case No.-285 Year-2020 Thana- PHULWARISHARIF District- Patna

Parshuram Bhagat @ Lulia, Son of Krishna Bhagat, Resident of Mohalla-Murgia Chak, Ward No.1, P.S.- Janipur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 23-08-2022 Heard Mr. Ravi Shankar Pankaj, learned counsel appearing on behalf of the petitioner and Mr. Ajit Kumar, 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 Phulwarisharif P.S. Case No. 285 of 2020 for the offence punishable under Sections 376(2)(i) of the Indian Penal Code and Section 4 of the POCSO Act.

The allegation against the petitioner is of committing rape upon the minor daughter of the informant.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner is the next door neighbour of the victim. Though the alleged incidence took place on 25.05.2020, but the F.I.R. was lodged after much delay on 26.05.2020 at



15:15 and the statement of the victim under Section 164 Cr.P.C. was recorded after five days of the alleged incidence on 30.05.2020. The delay in recording the statement of the victim creates doubt that she may have been tutored and the same cannot be accepted. The petitioner was arrested on 28.05.2020 before recording of the statement of the victim. The petitioner has been implicated in this case without following the mandatory provisions of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act). On these grounds he submits that the entire prosecution story is vitiated and creates doubt on the version of the prosecution. In course of investigation also, I.O. has not been able to gather any incriminating material against the petitioner which creates doubt on the medical report of the doctor who had examined the victim. On these grounds, the petitioner seeks to be released on bail.

Learned A.P.P. appearing on behalf of the State vehemently opposed the prayer for grant of bail to the petitioner. He submitted that the petitioner is the next door neighbour and has committed heinous crime on a minor child aged about 6 years. The allegation of rape is corroborated with the medical report which confirms the allegation of rape to have been committed. The victim in her statement under Section 164



Cr.P.C. has also supported the prosecution allegation made in the F.I.R. and she has identified that the petitioner has committed heinous crime with her. The Statement has been recorded in local dialect before the concerned Judicial Magistrate.

Having considered the rival submissions of the parties, materials on record and the statement of the victim, who is aged about 6 years, recorded under Section 164 Cr.P.C. also supports the allegation made against the petitioner. The medical report relating to the victim also supports the allegation. This Court is not inclined to enlarge the petitioner on bail.

Accordingly, the present bail application is rejected.

The trial court is directed to conclude the trial expeditiously.

(Purnendu Singh, J)

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