

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13233 of 2023

Arising Out of PS. Case No.-66 Year-2022 Thana- MAHILA PS District- Buxar

Chintu Rai @ Chintu Kumar Rajbhar Son Of Sri Dalraj Bhar @ Dal Rajbhar
R/V- Trikalpur, P.O.- Jalhara, P.S.- Rajpur, District- Buxar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 15-05-2023 The applicant is accused in Crime No. 66 of 2022 registered with Buxar Mahila Police Station for the offences punishable under Sections 3/4/5/7/9 of the Immoral Traffic (Prevention) Act, 1956, under Section 4/8 of Protection of Children from Sexual Offence (POCSO) Act and under Sections 419/420/376 of the Indian Penal Code. By this application he is seeking his release on bail during pendency of the trial after filing of the charge sheet.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

The learned counsel for the applicant argued that this is a case of blatant violation of human rights by the State



authorities making them liable for compensation to the applicant who was to marry the alleged victim of the crime in question today i.e., on 15.04.2023 itself. However, the highhanded action on the part of police had not only landed the applicant to the jail but has spoiled the entire further program of the marriage. In support of his contention, he placed reliance on documents produced with the application.

The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and involving penal provisions of the Immoral Traffic (Prevention) Act, 1956, as minor female children were found in Hotel Paradise situated in Buxar.

I have considered the submissions so advanced and also perused the materials placed on record including the FIR.

The FIR was lodged by Police Inspector Nirmal Kumar of Special Branch from the office of the Superintendent of Police, Buxar. It is alleged therein that he had received information regarding flesh trade at Hotel Paradise and that is how he conducted raid.

So far as the instant case is concerned, according to the FIR, the applicant was found in one room of the Hotel in company of one female aged about 23 years.



Needless to mention that the applicant is also an adult male. The said adult female was not arraigned as accused but the applicant came to be arrested with invocation of penal provisions of several Acts as mentioned in the foregoing para.

I fail to find out ingredient of any offence when two adult persons of opposite sex are found in a room of the Hotel by their consent.

Be that as it may, the applicant has placed on record affidavit of said adult female as well as her father so also the documents pertaining to her school as well as college education showing that she at the relevant time was an adult female. Her affidavit as well as affidavit of her father is to the effect that their marriage was fixed and was scheduled to be held today i.e., on 15.05.2023. The applicant, who was serving at Bangaluru, in the meanwhile had come to Buxar and with consent of the family members they both had gone to Hotel Paradise where unfortunately because of highhanded action of the police authorities, the applicant came to be arrested and is undergoing pre-trial detention from 29.12.2022.

In this view of the matter, further pretrial detention of the applicant is not warranted. Keeping the right of the



applicant for claiming compensation from the State on account of this highhanded Act reserved, this Court proceed to pass the following order :-

- i. The application is allowed.
- ii. The applicant/accused in Crime No.66 of 2022 registered with Buxar Mahila Police Station is directed to be released on bail on executing P.R. bond of Rs.1,000/- (Rupees One Thousand) and on furnishing surety of the like amount to the satisfaction of the trial court i.e., Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Buxar.

(A. M. Badar, J)

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