

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43350 of 2023

Arising Out of PS. Case No.-63 Year-2023 Thana- PATLIPUTRA District- Patna

1. Ashok Singh @ Ashok Kumar Singh S/O- Late Chalitar Singh, Village-Gonkura Ps- Chandi Dist- Nalanda At Present- Mahesh Nagar Ps- Patliputra Dist- Patna
2. Ritu Raj @ Prashant Son Of Ashok Singh @ Ashok Kumar Singh, Village-Gonkura P.S- Chandi Dist- Nalanda At Present- Mahesh Nagar P.S.- Patliputra Dist- Patna

... .. Petitioners

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Raj Ballabh Singh, APP
For the Informant	:	Mr. Dr. Kamal Deo Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-08-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners in the present case are seeking pre-arrest bail in connection with Patliputra P.S. Case No. 63 of 2023 registered for the offences punishable under Sections 292, 293, 351(A), of the Indian Penal Code and 8/10 of the POCSO Act. They have got no criminal antecedent.

3. Learned counsel for the petitioners submits that as per allegations, the alleged occurrence took place with the informant when she was studying in Class V in the year 2017 and in Class VIII in the year 2018. It is submitted that according to the informant, the petitioner no. 1 happens to be the grand-



father in her relation, she was going to his place for taking tuition where she was being shown porn videos and the petitioner no. 1 was touching her chest and private part. She did not tell it to anyone and continued with tuition for one year.

4. It is further alleged that in the year 2018 when she was studying in Class VIII then she took home-tuition from the son of petitioner no. 1, who is petitioner no. 2 in the present case.

5. It is alleged that he used to come to her house to provide home-tuition and the informant took tuition for about two years. It is alleged that during this period the petitioner no. 2 used to touch her back and cheek which she told to her mother whereupon her mother told her to tell the petitioner no. 2 not to touch her.

6. Learned counsel submits that the informant further alleges that she had gone in depression while thinking these things and had cut her vein and then she was in depression for one year for which she claims being treated at C.I.P, Kanke, Ranchi.

7. Learned counsel submits that it is a case of false implication because of petty disputes. As per her own averment, the petitioner nos. 1 and 2 had allegedly touched her in the year



2017 and 2018 which she had told to her mother but no FIR was lodged in the year 2018. It is not a case where the informant had not brought it to the notice of her parents.

8. Learned counsel further submits that the falsity of the allegation may be found in the statement of the victim in the FIR where she says that in the year 2017 she was in Class V whereas in the year 2018 she was in Class VIII, it is not possible that within a period of one year, she had passed three classes.

9. Learned counsel submits that there is a huge delay on about six and five years respectively from the alleged date of occurrence in lodging of the present FIR. Petitioner No. 2 has a bright career and he was even called for S.S.B. interview in January, 2022 as per Annexure '2'. The petitioners have no criminal antecedent and they are ready to face trial.

10. Learned counsel for the petitioners has informed this Court that no charge-sheet has been filed as yet against the petitioners, hence, at this stage, it cannot be contended that a prima-facie case has been found against the petitioners.

11. Learned counsel for the informant has opposed the application for grant of pre-arrest bail to the petitioners. It is submitted that the informant did not disclose these facts to her parents but learned counsel for the informant does not deny that



in the FIR itself, it is stated that the informant had told her mother about the alleged occurrence in the year 2018 itself.

12. Learned counsel for the State has though opposed the prayer for anticipatory bail of the petitioners but has not brought to the notice of this Court any material in support thereof.

13. Having heard learned counsel for the petitioners, learned counsel for the informant and learned counsel for the State, this Court has prima-facie noticed from the materials on the record and the submissions made before this Court that the allegation against petitioner no. 1 is that he was showing porn videos and was touching chest and private part of the informant in the year 2017 while she was going to take tuition from him. The informant claims that at the relevant time, she was studying in Class V and she took tuition for about one year whereafter the petitioner no. 2 who is son of petitioner no. 1 was coming to give her tuition. She claims that when she was in Class VIII in the year 2018, the petitioner no. 2 was coming to her house and give her tuition, therefore, these allegations are about six years and five years old and have no plausible explanations for this delay.

14. This Court finds force in the submission of



learned counsel for the petitioners that if the informant was in Class V in the year 2017 then it would not have been possible to be in Class VIII in the year 2018, for this no other material is required to be looked into. This Court further noticed that as per her own statement in the FIR, the informant had told her mother about the alleged occurrence in the year 2018 itself. The allegation against petitioner no. 2 is that he was touching her back and cheek. Apparently, the mother did not take it seriously.

15. This Court has noticed that the mother did not lodge any FIR and simply told her to tell petitioner no. 2 not to touch her, therefore, it is not one of those cases in which the victim girl was being subjected to harassment and it was not known to the parents of the victim, under these circumstances, if the delay of over 5-6 years in lodging of the FIR, that too, when it appears that the informant was not taking any tuition from these petitioners at least after 2018-19 gains significance. The submission on behalf of the petitioners that it may be a case of false implication on account of petty disputes as the petitioners are related to the victim is worth consideration. This Court has further noticed that at this stage no charge-sheet has been filed against the petitioners and the learned court below has yet to take a prima-facie view in the matter.



16. This Court, therefore, directs that in case of their arrest or surrender within a period of four weeks from today, the petitioners above named be released on bail in connection with Patliputra P.S. Case No. 63 of 2023 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District Judge VI cum Spl. Judge POCSO, Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

17. And further condition that during the pendency of the case/trial, both the petitioners shall join investigation by presenting themselves before the Investigating Officer within two weeks from today and shall continue to co-operate in course of investigation, failing which it will be open to the Investigating Officer to file an application seeking cancellation of bail bond of the petitioners.

18. And further condition that both the petitioners shall not approach the informant and her family members. In case of violation of this condition, it will also be open to the informant to approach this Court for cancellation of bail bond of the petitioners.

19. And further condition that the court below shall



verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

20. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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