

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62506 of 2022

Arising Out of PS. Case No.-67 Year-2022 Thana- MAHILA P.S. District- Bhojpur

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Sherajul Miyan Son Of Late Chhathu Miyan R/V- Gundi, P.S- Barahara, Dist-
Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarfraz Ahmad, Adv.

For the Opposite Party/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 22-02-2023 Let the defect(s), if any, be removed within two
weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
Mahila P.S. Case No. 67 of 2022 lodged under Sections 354(B)
of the I.P.C. and under Section 8/12 POCSO Act.

As per the prosecution case, the specific allegation
has been made by the informant against the petitioner that he
has tried to outrage the modesty of her daughter, aged about 15
years. On the basis of offences made, Section 8/12 POCSO Act
has been added in the present case.

Learned counsel for the petitioner submits that
petitioner is innocent and has committed no offence. He further

submits that petitioner is in custody since 10.07.2022 having clean antecedent. He submits that there is a long pending dispute going on between both the parties, for which a no F.I.R. under Section 7/95 was lodged and subsequently, a trial was started by Trial No. 06 of 2002. In the said trial, the said land was decided in the favour of Chhotu Miyan, a family member of the petitioner. Counsel for the petitioner submits that the consistant plea taken by the informant that landlord had made the settlement against Bikarma Sharma family but in Section 145 proceeding, the position of the land is in the name of the Chhotu Miyan i.e. father of the petitioner. He submits that only due to old pending dispute, the name of the present petitioner has been taken in this case.

On the point that statement made under Section 164 against the present petitioner, counsel for the petitioner submits that due to the reason that the alleged victim is a handicapped girl and Court is not the expert to understand her language, the statement made is not acceptable. Statement made under Section 164 has not been recorded on the basis of her statement, rather recorded on the basis of her indication. For recording her statement, the Court ought to take help of the expert, but it has not been done.

Learned counsel for the State opposes the prayer for bail and submits that statement made under Section 164 is not the statement rather it is written by virtue of indications only made by the victim girl and without taking any help of expert.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Addl. District & Sessions Judge 6th – Cum- Special Judge POCSO Bhojpur, Ara in connection with Mahila P.S. Case No. 67 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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