

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66327 of 2022

Arising Out of PS. Case No.-326 Year-2022 Thana- SIMRI District- Buxar

Uma Sahu @ Umashankar Sahu @ Uma Shankar Kanu @ Uma Shankar Prasad Son Of Late Dina Sahu R/V- Simri (Dudhipatti) P.S- Simri Dist- Buxar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Setu Prateek, Advocate

For the Opposite Party/s : Mr.Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 22-02-2023 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Simri Police Station Case No. 326 of 2022 registered for the offence under Section 377 of the Indian Penal Code and Section 4 of the POCSO Act.

The accused/petitioner is named in the F.I.R. and is in custody since 07.09.2022.

The allegation against the petitioner is to commit penetrative sexual assault upon the son of informant, aged about 13 years and also to commit carnal intercourse against the order



of nature.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is a '*Amin*' (**Land Measurement Worker**) and as he fails to satisfy the demands of informant to favour her while measuring the disputed land with her co-sharer, the present false implication was raised. It is also submitted that statement of victim as recorded under Section 164 of Cr.P.C. is contradicting the version of informant as alleged through present FIR. It is also submitted that even victim came to know about the occurrence from the CCTV footage after 2 or 3 days when it was shown to him by someone else, and as such, the entire implication is based upon electronic evidence, for which charge-sheet has been submitted without obtaining the mandatory certificate as required under Section 65B of Indian Evidence Act. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, where charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail submitted that allegation of carnal intercourse/penetrative sexual assault is available against this petitioner.



Considering the facts and circumstances as mentioned above and by taking note of the fact as there is a material contradiction between statement of victim as recorded under Section 164 of the Cr.P.C. and that of the narration of the FIR, where charge sheet has been submitted without obtaining the mandatory certificate under Section 65B of the Indian Evidence Act, let the petitioner, above named, is directed to be released on bail in connection with Simri Police Station Case No. 326 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Buxar/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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