

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70719 of 2022

Arising Out of PS. Case No.-42 Year-2022 Thana- MAHILA PS District- Darbhanga

Md. Shadab S/o Md. Islam R/O Karhattiya, P.S Sadar Mabee O.P, District-
Dharbhanga, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Syed Faizan Mehdi, Advocate Ms. Manisha, Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Vikash Kumar Jha, Advocate Mr. Ashhar Mustafa, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 16-03-2023 Heard learned counsel appearing on behalf of the
parties.

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

The petitioner seeks bail in connection with Mahila
P.S. Case No. 42 of 2022 registered for the offence under
Sections 354A, 354C, 354D, 379, 504, 506 and 34 of the Indian
Penal Code and Section 8 of the POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 07.08.2022.

The allegation against the petitioner is to outrage the
modesty of informant, who is minor girl aged about 17 years,
while she was on the way of her school.

Learned counsel appearing on behalf of the petitioner



submitted that petitioner has been falsely implicated in this case for two reasons, firstly i.e. love affairs, which is not accepted by the parents of the informant and secondly, the property disputes. It is submitted that Call Details Reports (CDR) as surfaced during course of investigation is matching with different mobile numbers through which call was alleged to made to informant. It is submitted that even as per FIR, the allegation is only to advance a threat to upload the objectionable photographs on social media website, whereas no such act in actual committed ever. It is submitted that no photographs were recovered as alleged from the mobile of petitioner, even the same was seized during course of investigation. While traveling over the argument, it is submitted that factum of entire allegation is based upon electronic evidence, for which, a mandatory certificate is required on behalf of service provider, under Section 65(B) of the Indian Evidence Act, which was not obtained. It is also submitted by learned counsel that petitioner is a disabled person having 40% disability in his left leg and as such, allegation as raised through present FIR is also not appearing convincing on its face. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been



completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

Learned APP duly assisted by learned counsel appearing on behalf of the informant, Sri Vikas Kumar Jha, while opposing the prayer of bail, submitted that petitioner is in continuous habit to outrage the modesty of informant since last several years, whenever, informant found on her way to school.

Considering the facts and circumstances as mentioned above, as no objectionable photographs and audio clips as alleged were recovered from seized mobile of petitioner to connect him, *prima facie*, with the present set of occurrence coupled with the fact that charge-sheet has already submitted, let the petitioner, above named, is directed to be released on bail in connection with Mahila P.S. Case No. 42 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 Special Judge (POCSO), Darbhanga/concerned court, subject to the following condition:

“(i) That petitioner shall not involve in the similar nature of offence with informant till the conclusion of trial, failing which, the learned Trial Court shall be at liberty to cancel the bail bond of the petitioner, if the matter is raised before the



learned Trial Court.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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