

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54701 of 2024

In
CRIMINAL APPEAL (SJ) No.163 of 2024

Arising Out of PS. Case No.-107 Year-2023 Thana- SAHODARA District- West Champaran

Mumtaj Miyan @ Mumtaj Sheikh @ Mumtaj Alam S/o Late Saradin Miyan
@ Serajdin R/o vill - Ratni, P.S. - Sahodara, Distt. - West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajnish Kumar S/o Late Shambhu Paswan R/o vill - Bailsandi, P.S. - Gaunaha, Distt. - West Champaran Bettiah

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binay Kumar

For the Opposite Party/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL ORDER

2 02-08-2024 Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the State.

2. The petitioner is seeking regular bail in connection with Shodara P.S. Case No. 107 of 2023 for the offences punishable under Sections 377 of the IPC and Sections 3(i), (r), (s), 13(2)(v a) of the SC/ST POA Act and Section 4/6 POCSO Act.

3. As per allegation, on 27.08.2023, the informant's friend came to him and took him to his relative where both have taken wine and in drunken state, the informant's friend is alleged to do unnatural act with the informant and having made video-graphy, circulated the same to the villagers of the informant.



4. Learned counsel for the petitioner has submitted that the informant did not name this petitioner in his *fardbeyan*. He named only co-accused Md. Mamsad Alam. Later on, in his statement recorded under Section 164 of the CrPC, the informant added the name of the petitioner, by stating that the petitioner also committed the same immoral act with the informant. He has further submitted that the subsequent addition of the name of the petitioner in the statement of the alleged victim is nothing but an afterthought. He has also submitted that if the petitioner had been involved in the occurrence his name should have figured in the *fardbeyan* of the informant which has been recorded prior to the statement under Section 164 of the CrPC. The informant implicated the petitioner only after the alleged video clip became viral. The petitioner is a person of clean antecedent and is under custody since 10.11.2023.

5. On the other hand, the learned APP for the State has opposed the prayer for bail.

6. Considering the above-mentioned facts and circumstances, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand rupees) with two sureties of the like amount each to the satisfaction of learned 7th Additional District and Sessions



Judge-cum-Special Judge POCSO West Champaran at Bettiah
in connection with Shodara P.S. Case No. 107 of 2023, subject
to the following conditions:-

- (i) The petitioner shall cooperate in the disposal of
trial and make himself available as and when
required by the court.

(Nawneet Kumar Pandey, J)

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