

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54010 of 2024

Arising Out of PS. Case No.-174 Year-2023 Thana- GOPALPUR District- West Champaran

Baby Kumari @ Divya Raj D/O Balistar Ram R/O Vill.- Sargatiya, P.s.-
Gopalpur, Dist.- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Patna
2. X (Symobolic name of the Father of the so called Victim) Son of Late Mukut Thakur R/O Vill.- Sargatiya, P.s.- Gopalpur, Dist.- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Nirmala Kumari

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 31-08-2024 1. Heard the parties.

2. The petitioner apprehends her arrest in connection with Gopalpur P.S. Case No. 174 of 2023 registered for the offence under Section 341, 323, 354B, 504, 506, 383, 294, 373 , 387, 464, 469 of the I.P.C. and under Section 67 of the IT Act and under Section 8 & 12 of the POCSO Act.

3. As per the F.I.R. the victim is a 13 year old girl studying in Class-9th and the petitioner- Baby Kumari @ Divya Raj, a so-called Bhojpuri folk singer, has sung an obscene song taking the name and other details of the informant and made it viral. After that, all the accused persons named in the F.I.R. reached at the house of the informant and told her to work for their gang



after playing the song before her. On refusal to do so, the accused persons spread the song on social media. Due to entire episode, the informant out of shame stopped going to school. Thereafter, the accused persons played the song on DJ in the village and threatened the informant and her parents to implicate them in false case.

4. Learned counsel for the petitioner submits that the petitioner is a lady and she has been implicated in this case only with a view to malign her prestige. He next submits that there is delay of more than three months in lodging the complaint, which was converted into F.I.R. as the alleged date of occurrence is 03.08.2023 and the date of filing the complaint is 07.11.2023 which creates serious doubt on the prosecution story. He further submits that as a matter of fact the brother of the informant himself is a singer, who composed the song by putting his sister's name so that no one can make objection since placing name in the song were in fashion those days. He also submits that neither the administration nor any social media authority has made any objection against the alleged song since nothing indecent or objectionable content is there against any particular person in the song as alleged in the F.I.R. and the informant has wrongly stated that her name with her address



was there in the song.

5. I have heard learned counsel for the parties and perused the materials available on record. Learned Special Judge, POCSO cum A.D.J.-VI, West Champaran, Bettiah while refusing bail to the petitioner has categorically mentioned that from perusal of the case diary it transpires that the victim is a minor girl whose date of birth is 01.01.2010. The victim girl has clearly stated in her statement recorded under Section 161 Cr.P.C. that the accused-petitioner / Baby Kumari @ Divya Raj sung the obscene song by taking her name and also her family name and village name and she also used filthy words in the same song against her and also make the song viral on the social media in order to defame her in the society due to which she left to go to her school. There is sufficient material available against the petitioner in the case diary that she intentionally sang the song with wrong sexual word connected with the victim knowingly and viralled it on social media. The song is still running on You Tube. *Prima facie* allegation under Section 12 of the POCSO Act and Section 67 of the I.T. Act is made out against the petitioner.

6. Considering the fact that victim is a minor aged about 13 years old and *prima facie* there is material that victim was



subjected too sexual harassment, I do not find any reason to differ with the findings of the learned Special Judge POCSO cum A.D.J. VI, West Champaran, Bettiah. As such, I am of the opinion that the petitioner does not deserve the privilege of anticipatory bail.

7. Accordingly, the prayer for grant of anticipatory bail to the petitioner is rejected.

(Anil Kumar Sinha, J)

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