

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60276 of 2024

Arising Out of PS. Case No.-206 Year-2023 Thana- NOORSARAI District- Nalanda

Sunny Kumar @ Suny Kumar S/O Munna Yadav Resident of Village-
Kakaria, P.S. -Noorsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Gudiya Devi W/O Guddu Ram R/O Village- Kakaria, P.S- Noorsarai, Distt.-
Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar, Adv. Mr. Praveen Kumar, Adv. Ms.Kumari Seema Singh, Adv.
For the Opposite Party/s :		Mr.Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-08-2024 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. This is an application for grant of bail to the petitioner, who is in custody in connection with Noorsarai P.S. Case No. 206 of 2023, registered for the offences punishable under Section 366(A) of the Indian Penal Code. Later on chargesheet has been submitted under Sections 8 and 12 of the Protection of Children from Sexual Offences.

3. Based upon the written report, the prosecution alleges that on 04.05.2023, in the morning, the daughter of the informant went to her school, however she did not return. Despite effort being taken by the informant to search about her



whereabouts, she could not be found and later on suspicion has been raised against the petitioner, as the girl used to talk to the petitioner on his mobile.

4. Learned Advocate for the petitioner contended that the narratives made in the FIR clearly suggest that the entire case is based on suspicion. Moreover, the alleged occurrence took place on 04.05.2023 and the FIR has been instituted on 07.05.2023. The victim girl voluntarily returned to her house and thereafter her statement has been recorded under Section 161 Cr.P.C. and later on Section 164 Cr.P.C. wherein she has not even whispered the name of the petitioner and the statement has been made that she voluntarily left her house because of she being scolded by her mother. The age of the victim is said to be 17 years. It is next contended that be that as it may, the petitioner is a man of fair antecedent and he has been incarcerated since 03.06.2024.

5. On the other hand, learned APP for the State opposed the bail application and submitted that after investigation the police has submitted chargehseet under Sections 8/12 of the POCSO Act and the allegation against the petitioner is of enticing the daughter of the informant.

6. Regard being had to the submissions made on



behalf of the parties and considering the fact that the statement of the victim which has been taken note of in the impugned order wherein there is no allegation against the petitioner of enticing away or causing any misbehave with the victim, coupled with the delay in lodging of the FIR as well as the fact that the entire case is based on suspicion. Moreover the allegation levelled in the FIR as well as the statement recorded under Section 164 Cr.P.C. *prima facie* do not constitute any offence muchless under Section 376A of the Indian Penal Code and the penal provision of the POCSO Act. Thus, in the opinion of this Court, no notice is required, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VII-cum-Special Judge, POCSO, Biharsharif, Nalanda in connection with Noorsarai P.S. Case No. 206 of 2023, subject to the condition that one of the bailors shall be the own/close family members of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of



trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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