

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69206 of 2024

Arising Out of PS. Case No.-318 Year-2024 Thana- BUDDHACOLONY District- Patna

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Ashish Kumar Son of Sanjay Kumar Village- Samrat Lane, Kannulal Road,
P.S.- Jakkanpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rachana Kumari Wife of Prashant Kumar village- Sundar Bhawan 3,
kannulal road, Mithapur, ps- Jakkanpur, Dist- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Amrit Kumar, Adv
For the Opposite Party/s : Mr.Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 03-10-2024 Heard Learned Counsel for the petitioner and

learned A.P.P. for the State.

2. The present Criminal Miscellaneous Application has been filed under Section 483 and 484 of The Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the “BNSS, 2023”) praying for regular bail to the petitioner in connection with Budha Colony P.S. Case No. 318 of 2024 lodged on 04.07.2024 under Sections 126, 115(2), 76, 79 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as BNS) and Section 8 of the POCSO Act.

3. As per the prosecution case, F.I.R. has been lodged against present petitioner with an allegation that he used to



annoy the victim girl and pass dirty comments on her way to coaching institute.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He further submits that petitioner used to demand mobile number in order to establish friendship with the informant's daughter and upon denial, petitioner has tried to assault her and outrage the modesty of the victim girl. He submits that there is no wrongful confinement committed, therefore, Section 126 of BNS is not made out against the petitioner. He further submits that Section 76 of BNS is also not made out due to lack of disrobing or compelling her to be naked. He further submits that at worst Section 115(2) or a part of Section 79 is made out. He further submits that the petitioner is aged about 25 years and is student. He submits that if petitioner is granted bail, he shall not commit any such mistake again and he is ready to fulfill whatsoever conditions shall be imposed by this Court.

5. Learned APP for the State opposes the prayer for bail and submits that *modus-operandi* of the petitioner is such that if he is released, he shall commit such mistake again and it will be difficult for the girl to complete her studies.

6. Learned Counsel for the informant submits that bail



may be granted to the informant. He further submits that due to intervention at the guardian level, parties had filed compromise petitioner before Sessions Court but since offences are non-compoundable in nature, bail has been rejected.

6. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named be granted bail on furnishing bail bonds of Rs. 30,000/- (Rupees Thirty thousand) as mentioned in Section 2(1)(d) of BNSS to the satisfaction of Additional Sessions Judge Vith-cum-Exclusive Special Judge POCSO, Patna in connection with Budha Colony P.S. Case No. 318/2024 subject to the condition laid down under Section 480(3) of BNSS.

7. It is made clear to the Trial Court that if in future, petitioner repeats his mistake then the Trial Court shall be at liberty to cancel the bail bond of the petitioner.

(Dr. Anshuman, J)

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