

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83702 of 2023

Arising Out of PS. Case No.-380 Year-2022 Thana- DIGHA District- Patna

Amarnath Sah @ Amarnath Prasad Gupta @ Amarnath Gupta Son Of Late
Srichandra Prasad Gupta Resident Of Village- Tara Bariyarpur, Ps-
Khodawandpur, Distt- Begusarai, At Present C/O Harsh Gupta Ke Mithai
Dukan, Mithila Colony, Ps- Digha, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Rai, Advocate

For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

4 18-04-2024 Let the defect(s) be ignored as pointed out by the
Stamp Reporter as the Opposite Party No.2 is appearing today.

2. Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

3. The petitioner is in custody in connection with
Digha P.S. Case No. 380 of 2022 pending in the Court of
Additional Sessions Judge-VI-cum-Special Judge, POCSO,
Patna in a case registered for the offence punishable under
Section 354 and 354(A) of the Indian Penal Code and Section
3(b), 6 and 12 of the POCSO Act.

4. As per allegation in the FIR, the petitioner has
sexually abused the grand daughters aged about 8 years and 12



years, by way of fingering in her private part continuously for three to four days while she was sleeping in the night. It is further alleged in the FIR that the petitioner also sexually abused the younger grand daughter who is aged about 08 to 10 years.

5. Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case. He next submits that petitioner has got clean antecedent as stated in para-3 of the petition and he is in custody since 13.05.2023. He next submits that the petitioner is grand-father of the minor victims who is father of the step mother of the victim and the biological mother of the victim has died. The petitioner is aged about 75 years and he has strained relationship with the paternal grand-mother and for that the informant/grand mother filed this case to falsely implicate the petitioner.

6. Learned counsel for the State and learned counsel for the informant opposes the prayer for bail of the petitioner.

7. On perusal of the first information report, case diary, 164 statement of the victim girls and impugned order dated 25.09.2023, it appears that the father of the minor victims has also stated in para-7 of the case diary in his statement that his father-in-law (petitioner) sexually abused both the victims.



The counseling report also shows that the victim no.1 has spoken about the alleged incident and it has caused her psychological trauma. The statement under Section 164 of the Cr.P.C. of both the victims clearly mentions that the petitioner sexually abused the victims by inserting fingers in her private parts. Both the victims are minor and their statement under section 164 of the Cr.P.C. is clear, though they do not know as to what is a private part but they have indicated in both their statements as to where the petitioner inserted his finger regularly for eight to nine days. When the victims told this to the step mother, she silenced them and even insisted them to sleep along with the step grand father even after protest by the victims. From perusal of the impugned order, it also appears that victims have told about the alleged incident to their paternal grand mother/informant and the information was given by her to the police station.

8. Considering all aspects of the material which is available in the case diary as well as impugned order, it is very shameful act and is of serious nature committed by the petitioner/grand-father who is aged about 75 years, I am not inclined to grant bail to the petitioner.

9. Prayer for regular bail of the petitioner is hereby



rejected.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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