

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70241 of 2024

Arising Out of PS. Case No.-70 Year-2024 Thana- SARMERA District- Nalanda

Shyam Sundar @ Kanhaiya S/o Ram Pratap Shukla R/o vill - Barhi,
Malawan, P.S. - Sarmera, Distt. - Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX S/o Ashok Kumar R/o vill - Barhi Malawan, P.S. - Sarmera, Distt. - Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Ms. Diksha Kumari, Advocate
For the State	:	Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 23-01-2025 Heard learned counsel for the petitioner and learned APP
for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
POCSO Case No. 42 of 2024 arising out of Sarmera P.S. Case
No. 70 of 2024 instituted for the offence under Sections 377,
337, 504 & 34 of the Indian Penal Code and Sections 4 & 6 of
the POCSO Act.

3. As per prosecution case, accusation against the
petitioner is of committing unnatural intercourse with the son of
the informant in an intoxicated state.

4. It has been submitted on behalf of the petitioner
that the petitioner is in custody since 05-06-2024. Petitioner



bears no criminal antecedent, as per disclosure made in paragraph No. 3 of the bail application.

5. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case. There is delay of three days in lodging of the FIR. Learned counsel submits that before Holi festival, some altercation took place between the informant's family and the petitioner's family regarding performing of *Puja* and *dakshina*, due to which he has been implicated in this case. No such occurrence took place as alleged in the FIR. Learned counsel submits that doctor has opined that there is no positive evidence of anal intercourse. It is lastly submitted that charge sheet has been submitted in this case.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Referring to statement of the victim recorded under Section 164 of the Cr.P.C., it is submitted that victim has supported the prosecution case.

7. Considering the aforesaid facts and circumstances of the case, period of custody of the petitioner and charge sheet being submitted, this Court is inclined to grant bail to the petitioner.



8. Let the petitioner be released on bail, *after framing of charge, if not already framed*, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with POCSO Case No. 42 of 2024 arising out of Sarmera P.S. Case No. 70 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

Raj Kishore/-

U		T	
---	--	---	--

