

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53993 of 2025

Arising Out of PS. Case No.-333 Year-2024 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

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Basant Tiwari @ Basawan Tiwari @ Bashwan Tiwari, S/O Late Sardar Tiwari
R/O Village- Sonao (Sonaw/Sonan), P.S.- Bhagwanpur (Belaon/Belan),
District- Kaimur at Bhabua

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sharda Devi, W/O Nande Bind, R/O Village- Taraon, P.O.- Kharenda, P.S.-
Bhagwanpur (Belaon/Belan), District- Kaimur at Bhabua, PIN Code-821102

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Parwej Khan, Advocate
For the Opposite Party/s : Ms. Meena Singh, APP
For the Opposite party No.2: Mr. Tribhuwan Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

4 21-01-2026 Heard learned counsel for the petitioner, learned
counsel for the opposite party no.2 and learned A.P.P. for the
State.

2. Petitioner apprehends his arrest in connection with
Bhagwanpur (Belaon/Belan) P.S. Case No. 333 of 2024
registered for the offences under Sections 74, 75, 78 and 351(2)
of the Bharatiya Nyaya Sanhita, 2023 and Section 8 of the
Prevention of Children from Sexual Offences Act, 2012.

3. As per the prosecution case, the informant has



alleged that on 15.11.2024, while she was at her home, the petitioner came to her doors and requested to come for the harvesting of paddy. The informant pleaded ignorance about the field of the petitioner and, therefore, sent her minor daughter with the petitioner on his motorcycle. It is further alleged that the petitioner at the fields started molesting her minor daughter and when he heard that the informant was coming, he fled on his motorcycle. The informant, when, confronted the petitioner he abused her and was forcefully flirting with her.

4. Learned counsel for the petitioner submits that from mere perusal of the FIR, it would be evident that the petitioner has falsely been implicated and from the statement of the informant, it would be evident that she was not aware of the fields of the petitioner, however, she came from behind to the fields. It has further been submitted that, in fact, on 16.11.2024 the present informant along with her husband were harvesting paddy crops from the agricultural field of the petitioner to which the brother of the petitioner objected whereupon the informant and her husband started abusing and an altercation took place and they even threaten to kill the younger brother of the petitioner.

5. Learned counsel for the petitioner submits that the



husband of the informant has a criminal history and had been to the jail on the charges of theft and molestation. It has been submitted that for the occurrence date 16.11.2024, Bhagwanpur P.S. Case No. 334 of 2024 was lodged by the younger brother of the petitioner. It has next been submitted that the present case is a false and concocted case and has been lodged taking recourse to lodging of false case under the POCSO Act with the help of their minor child. Learned counsel for the petitioner submits that the case diary has been called for by this Hon'ble Court and from perusal of the same, it would appear that the allegations are superficial and there are no allegations of sexual assault either made, by the informant or by the victim herself in her statement made under Section 164 of Cr.P.C. It has further been submitted that the police, too, after investigation, found that the allegations levelled against the petitioner were false and fabricated and a final form was submitted on 31.12.2024. It has also been submitted that during the course of investigation witnesses were examined and even the Supervisory Authority found that it was on account of the scolding of the child of the present informant by the petitioner that the present false case has been registered. However, differing with the final form, cognizance has been taken against the petitioner. It has been



submitted that the petitioner has clean antecedent and he has falsely been implicated in the present case.

6. Learned APP for the State as well as learned opposite party no.2 have vehemently opposed the prayer for anticipatory bail and have stated that the victim was examined under Section 164 of Cr.P.C. and she has specifically stated about the petitioner to have molested her in the field and when he saw that the mother of the victim was approaching, he fled away.

7. Having heard the learned parties and considering the submissions of the respective parties as well as from the perusal of the case diary, it appears that during the course of investigation it was found that on account of some personal dispute the present case has been lodged against the petitioner with an allegation of molestation, let the petitioner above named be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bonds of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending/successor court in connection with Bhagwanpur (Belaon/Belan) P.S. Case No. 333 of 2024, subject to the



conditions as laid down under Section 438(2) of the Code of Criminal Procedure read with corresponding Section 482(2) of B.N.S.S. as well as subject to the following conditions:-

- (i) One of the bailors of the petitioner shall be his close relative.
- (ii) The petitioner shall remain physically present in Court on each date of the trial.
- (iii) In case of absence on two consecutive dates, or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the Court concerned.
- (iv) If the petitioner is found involved in similar nature of offence in future, the prosecution shall be at liberty to move for cancellation of his bail bond.
- (v) The learned 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

8. Accordingly, the prayer for anticipatory bail is allowed.

9. It is made clear that the observation, if any, made in this order, shall be of no bearing during the trial.

10. This Court while hearing this application and while going through the case diary, found that the 164 Statement



of the victim, who is stated to be 10 years old, was recorded in the case diary in paragraph '31' on 21.11.2024. This Court was amazed to find that the 164 Cr.P.C. statement of the victim was referred to in the case diary openly contrary to the directions of the Hon'ble Supreme Court passed in the case of *State of Karnataka vs. Shivanna @ Tarkari Shivanna* reported in **2014 (8) SCC 913**, whereby the Hon'ble Supreme Court had mandated that the statement recorded under Section 164 Cr.P.C. should not be disclosed to any person till charge-sheet/report under Section 173 Cr.P.C. is filed. We, as constitutional Courts have ensured such compliance and have been calling the victim's statements under sealed envelopes, however, in the present case, I not only find that the entire statement finds recorded in the case diary in paragraph '31', there is also a separate copy attached at the end of the case diary.

11. In view of the above, let the learned Principal District and Sessions Judge, Kaimur at Bhabhua, be informed about the present order, which shall be communicated to the Superintendent of Police and the Superintendent of Police, Kaimur, Bhabhua, shall ensure that the Station House Officers of all the police stations under his jurisdiction follow the mandate of the Hon'ble Supreme Court.



12. Let a copy of this order be sent to the learned
Principal District and Sessions Judge, Kaimur at Bhabhua and
the Superintendent of Police, Kaimur at Bhabhua by e-mail/fax.

(Sourendra Pandey, J)

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