

Munir @ Mustaque Vs State Of Bihar

Court: Patna High Court

Date of Decision: Jan. 27, 2021

Acts Referred: Indian Penal Code, 1860 " Section 34, 323, 354A, 354B, 504, 506
 Code Of Criminal Procedure, 1973 " Section 164
 Information Technology Act, 2000 " Section 66E, 67A

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Ajay Mukherjee, Anant Kumar

Final Decision: Dismissed

Judgement

1. Heard Mr. Ajay Mukherjee, learned counsel for the petitioner and Mr. Anant Kumar, learned Additional Public Prosecutor (hereinafter referred to

as the "APP" for the State.

2. The petitioner is in custody in connection with Nalanda PS Case No. 41 of 2020 dated 04.04.2020 (G.R. No. 1742 of 2020), instituted under

Sections 354A/354B/504/506/323/34 of the Indian Penal Code and 66E/67A of The Information Technology Act, 2010.

3. The allegation against the petitioner is that he had got into physical relationship with the daughter of the informant and had also made video of the

same which was made viral by co-accused Md. Arman.

4. Learned counsel for the petitioner submitted that in the statement before the Court under Section 164 of the Code of Criminal Procedure, 1973, the

age of the victim is disclosed as 19 years which means that she was major and, thus, the physical relationship was consensual. It was further

submitted that even with regard to the video of the physical relationship being made viral, the same is against co-accused and not the petitioner. On a

query of the Court to learned counsel as to why the video was made in the first place, and how co-accused got the same, learned counsel submitted

that the video was made with consent and the co-accused, who is his friend, might have stolen it from his mobile. It was submitted that the petitioner

has no criminal antecedent and is in custody since 05.04.2020.

5. Learned APP submitted that the petitioner having got into physical relationship had videographed the act and even if it was with the consent of the

victim, the same could not have been shared with co-accused Md. Arman.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge

the petitioner on bail, for the present.

7. Accordingly, the application stands dismissed.