

(2021) 06 PAT CK 0038

Patna High Court

Case No: Criminal Miscellaneous No. 7667 Of 2021

Md. Imtiyaz,

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: June 14, 2021

Acts Referred:

- Indian Penal Code, 1860 - Section 354B
- Code Of Criminal Procedure, 1973 - Section 438(2)
- Protection Of Children From Sexual Offences Act, 2012 - Section 8

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Nafisuzzoha, Murlidhar

Final Decision: Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. The matter has been heard out of turn on the basis of motion slip being filed by learned counsel for the petitioners on 10.06.2021, which was allowed.
3. Heard Mr. Nafisuzzoha, learned counsel for the petitioner and Mr. Murlidhar, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
4. The petitioner apprehends arrest in connection with Kishanpur PS Case No. 237 of 2020 dated 13.08.2020, instituted under Sections 354-B of the Indian Penal Code and 8 of the Protection of Children from Sexual Offences Act, 2012.

5. The allegation against the petitioner is that he had enticed the 14 years old daughter of the informant and taken her to Anganwadi Centre at 4.00

PM on 07.08.2020 and tried to outrage her modesty and on cry raised, nearby people came and the petitioner had run away threatening to kill and

thereafter a Panchayati was convened, but the petitioner and his guardian did not attend the same.

6. Learned counsel for the petitioner submitted that totally false and concocted allegation has been levelled for oblique reasons. It was submitted that

the petitioner's father is a respectable person and has good land holding and is a farmer and the petitioner also does farming with his father and

the present incident is a direct outcome of the daughter of the informant having cut paddy crop from the petitioner's field, which was objected and

thereafter a Panchayati was arranged, which caused annoyance to the informant and the petitioner on the one hand accepted the Panchayati and not

file any case for theft against the daughter of the informant; while on the other hand, the informant has got this false case instituted. It was submitted

that the incident is said to have occurred on 07.08.2020, whereas, the case has been lodged on 13.08.2020, for which there is no believable

explanation. It was submitted that even if it is taken at its face value that there was Panchayati and the petitioner and his guardian did not attend, the

Panchayati would have been held within 2-3 days i.e., either on 8th or 9th August, 2020, and, if, as per the allegation in the FIR itself, the petitioner and

his guardian did not come, there is no reason why there would be delay of 4-5 days in lodging the FIR as nothing prevented the informant to lodge the

FIR once the petitioner and his guardian had not turned up for Panchayati. Learned counsel submitted that otherwise also, the allegation that the

daughter of the informant was taken to Anganwadi Centre at 4.00 PM cannot be believed as the Anganwadi Centre is open only in the forenoon and

latest till 2.00 PM, after which it is locked and, thus, there is no occasion for any person to enter that premises after that time. It was submitted that

the case has been filed with ulterior motive to tarnish the social prestige of the petitioner and his family. Learned counsel submitted that petitioner has

no criminal antecedent being a married man.

7. Learned APP submitted that as per the allegation, the petitioner had enticed the daughter of the informant and had taken her to the Anganwadi Centre. However, he could not controvert that Anganwadi Centre is not open at 4.00 PM and further, that the allegation is only with regard to having attempted to outrage the modesty.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ADJ-VI, Supaul, in Kishanpur PS Case No. 237 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or undertaking and failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The application stands disposed off in the aforementioned terms.