

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36404 of 2021**

Arising Out of PS. Case No.-11 Year-2021 Thana- TEGHRHA District- Begusarai

Gulshan Kumar, aged about 21 years, Sex-Male, Son of Hare Krishna Singh @ Nunu Babu Singh, Resident of Village - Madhurapur, Dakhin Tola, P.S.- Teghra, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the State : Mr. Abhay Kumar Roy, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 06-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 02.08.2021, which was allowed.

2. Heard Mr. Bipin Kumar, learned counsel for the petitioner and Mr. Abhay Kumar Roy, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Teghra PS Case No. 11 of 2021 dated 10.01.2021, instituted under Sections 364/354B of the Indian Penal Code and 8 of the Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioner, along with others, is of being party to forcefully making the informant and



her friend ride on a motorcycle and being taken to a nearby place, but due to the road being in bad condition, the motorcycle was moving in a slow speed and the informant and her friend jumped from the motorcycle and ran to the house of a villager there who saved them and informed the guardians of the informant who came and took them back.

5. Learned counsel for the petitioner submitted that as per the allegation, there are five named accused persons, including the petitioner, and the main allegation is against co-accused Mithu Kumar, on whose motorcycle, the informant and her friend are said to have been forcibly made to sit. It was submitted that the petitioner is only said to have been riding another motorcycle and even thereafter, as per the allegation itself, before they could reach the village, both the girls jumped from the motorcycle and went to the house of a villager and nothing further happened and from there their guardians had come and taken back. Learned counsel submitted that false allegation has been made and the parties have compromised. It was submitted that the petitioner is an NCC trainer and has no other criminal antecedent.

6. Learned APP submitted that the police after investigation have submitted charge-sheet having found the



allegation to be correct and most importantly, there is no motive for false implication and only a vague statement has been made that the petitioner has been named due to village politics. Further, learned APP submitted that no reason has been given as to why two girls would file such a case in which it is alleged that the persons were trying to physically abuse them as it would have an adverse effect on their and their families' prestige in society. Thus, he contended, that the allegation cannot be brushed aside, more so, when the police after proper investigation have submitted charge-sheet against the accused, including the petitioner. It was further submitted that the informant has also given statement before the Court under Section 164 of the Code of Criminal Procedure, 1973 and has fully supported the prosecution case. Learned APP further submitted that in such cases, there is no scope for any compromise, as the victim being minors, their consent is immaterial as they are also not aware of the consequences and most importantly, the offences are not compoundable and amenable to any compromise.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.



8. Accordingly, the petition stands dismissed.

9. However, in view of submission of learned counsel for the petitioner, it is observed that if the petitioner appears before the Court below and prays for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

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