

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35040 of 2016

Arising Out of PS.Case No. -42 Year- 2011 Thana -KOTHI District- GAYA

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1. Rajiv Kumar @ Bhola Bhuian Son of Ramashish Bhuian, Resident of
Village- Koshmahi, P.S- Kothi District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

2 22-08-2016

Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered under
Sections-399, 402 of the Indian Penal Code and under Section-
366(A) of the Indian Penal Code.

The statement of victim was recorded u/S 164 of the
Cr.P.C. in which, she stated that having solemnized her marriage
by her own sweet will with the petitioner, she is residing happily
and peacefully with the petitioner and she has given birth to a
child out of the said wedlock. The statement of victim was
recorded on 08-06-2016 and the concerned Magistrate assessed
the age of victim as 21 years whereas; the victim disclosed her age
24 years. The medical board examined the victim on 30-06-2016
and assessed her age as 19 years but learned Additional Sessions

Judge-Ist, Gaya without applying his judicial mind, rejected the prayer for bail of the petitioner only on the ground that the occurrence had taken place in the year, 2011 and at that time, the victim was aged about 14 years.

The approach of the learned Additional Sessions Judge-Ist, Gaya is depreciable because he failed to understand that the victim has been residing with the petitioner as his wife and the order of learned Additional Sessions Judge-Ist, Gaya may create problem and nuisance in the married life of the victim as well as the petitioner.

Considering the above-said facts and circumstances of the case as well as submission of the parties, let the petitioner named above, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Kothi P.S. Case No. 42 of 2011 to the satisfaction of learned Additional Chief Judicial Magistrate, Sherghatti, Gaya.

However, the strict warning is issued to learned Additional Sessions Judge-Ist, Gaya to this effect that he should be more judicious and vigilant while passing orders on bail petitions.

(Hemant Kumar Srivastava, J)

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