

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.69083 of 2018

Arising Out of PS. Case No.-40 Year-2018 Thana- MARAUNA District- Supaul

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Bharat Sahani @ Bharat Kumar Mukhiya, S/o Gulden Sahani @ Gulden Mukhiya, Resident of Village-Palar,P .S. Andhratadhi, Distt.-Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Adv.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 18-12-2018 The petitioner seeks bail in anticipation of his arrest in connection with Marauna P.S. Case No. 40 of 2018, dated 28.04.2018, instituted for the offences under Sections 366(A)/34 of the Indian Penal Code.

The petitioner is alleged to have kidnapped/abducted the minor daughter of the informant.

The victim girl has given her statement under Section 164 Cr.P.C., wherein she has disclosed her age to be 18 years and has stated that she came to know about the



petitioner about two years ago and fell in love with him. This information was given by her to her mother, but she did not agree for marrying her with the petitioner. She has also stated that the petitioner stands in some relation with her.

The age of the victim has also been assessed by the Judicial Officer recording her statement and he has found that she was in a position to make her statement as a major woman.

However, the order impugned reflects that the medical opinion regarding the age of the victim is 16 years.

The learned counsel for the petitioner has submitted that such assessment was only on the basis of radiological examination and other rudimentary methods for assessing the age. It has further been submitted that in the event the victim herself disclosing her age to be 18 years, there is no reason to doubt the aforesaid statement.

This Court but is in a dilemma, being conscious of the fact that even the consent of a minor girl would not absolve a person of the crime, nonetheless this Court takes into account that if the petitioner is sent to jail, the marital



relationship of the daughter of the informant could also get disrupted, which would not be for the benefit of anyone. From the records, it further appears that the informant has expressed his desire not to prosecute the petitioner any further.

Considering the facts aforestated in totality, the petitioner, above named, in the event of his arrest or surrender before the learned Court below within a period of four weeks from the date of receipt/production of a copy of the present order, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-Ist Class, Supaul in connection with Marauna P.S. Case No. 40 of 2018, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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