

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31476 of 2018

Arising Out of PS. Case No. -123 Year- 2017 Thana -BASOPATTI District- MADHUBANI

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Mithilesh Mandal, S/o Rajendra Mandal, R/v Chhatauni, P.S.- Bassopatti,
Distt.- Madhuban. Petitioner/s

Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL ORDER

02 22-05-2018 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in Basopatti P.S. Case No.
123 of 2017 registered under Section 363, 366(A)/34 of the Indian
Penal Code and 4 of the Protection of Children from Sexual
Offenses Act, 2012 Act.

The petitioner along with other accused persons are
said to have kidnapped the minor daughter of the informant. The
victim in her statement recorded under Section 164 Cr.P.C. has
also named the petitioner as her kidnapper.

It is submitted by learned counsel for the petitioner
that no such occurrence as alleged has took place. The petitioner is
quite innocent. He has been falsely implicated in this case due to
dispute between the informant and the petitioner. The allegation
levelled against the petitioner is not specific rather general and



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omnibus in nature. Though the victim in her statement under Section 164 Cr.P.C. has stated that the petitioner had kidnapped her on the pretext of accident of her father and admitted in hospital after making her senseless and took her to Delhi but she has not stated about committing of any sexual assault against her by the petitioner. As there is no allegation of sexual assault on the victim against the petitioner and victim was not allegedly kidnapped by the petitioner to force her to have sexual relation with the petitioner or any other person, offence under Section 366 A of Indian Penal Code and Section 4 of POCSO Act is not made out, utmost it is a case under Section 363 of the Indian Penal Code which is bailable. The petitioner has no criminal antecedent and has been languishing in custody since 28.02.2018.

Considering the facts aforesaid, the above named petitioner/s is/are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Madhubani in connection with Basopatti P.S. Case No. 123 of 2017.

(Prakash Chandra Jaiswal, J)

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