

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2139 of 2018

Arising Out of PS.Case No. -574 Year- 2015 Thana -BANKA District- BANKA

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Shyam Das, Son of Triveni Das, Resident of Village – Chiraiya Logain,
P.S. Amarpur, District – Banka.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha

For the Opposite Party/s : Mr. Smt. Nirmala Kumari

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 16-01-2018

Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner is apprehending his arrest in
a case registered for the offences punishable under Sections
366A/34 of the Indian Penal Code.

The prosecution case as per the written
report submitted by Tara Devi to the SHO, Barahat Police
Station is to the effect that her daughter namely, Priyanka Kumar
aged about 17 years 6 months, student of Intermediate was taken
away by Sunita Kumari and Rita Devi in the morning when
petitioner Shyam Das was waiting for them at Kharhara Chowk
and Sunita Kumari and Rita Devi both got her daughter reached
there and since then the victim is missing. It is further alleged
that when the informant during search reached at Barahat



Railway Junction found Sunita Devi and the petitioner were there and both told her that daughter went ahead. The informant has alleged that all the three persons enticed her daughter away.

It is submitted by learned counsel for the petitioner that the victim has performed marriage with the petitioner. The victim in the statement under Section 164 of the Cr.P.C. has got her age recorded as 20 years when the Court has assessed her age as 19 years, where she has stated that she has married with the petitioner on 30.08.2015 and now she has given birth to a baby child. It is further submitted that the present case has maliciously been lodged by the mother.

Though, the impugned order reflects that in the school certificates, the date of birth of the victim has been mentioned as 02.05.1998 when the date of occurrence is 30.08.2015 and hence, the victim was not 18 years of age on the date of occurrence.

Learned APP submits that the thrust of accusation is against the petitioner.

Considering the statement under Section 164 of the Cr.P.C. of the victim wherein the accusation of kidnapping is denied by the victim and she claimed herself to be of 20 years when the Court has assessed her age as 19 years and



even assuming that on the date of occurrence, the victim was minor but on the date of recording her statement under Section 164 Cr.P.C. she attained majority, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Banka (Barahat) P.S. Case No. 574 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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