

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3107 of 2018

Arising Out of PS.Case No. -138 Year- 2016 Thana -BANMANKHI District- PURNIA

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1. Amar Kumar Mandal @ Amar Kumar Roy, son of Nitya Nand Roy,
resident of village- Khushkibagh, P.S.- Sadar, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate

For the Opposite Party/s : Mr. Dinesh Singh, APP

Mr. Vikram Singh, Advocate

Mr. Rakesh Kumar Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7/ 03-04-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for informant.

Petitioner apprehends his arrest in **Banmankhi P.S.**

Case No.138 of 2016 instituted for the offence under Section(s)

363, 366-A Indian Penal Code and Section 4 of the POCSO Act.

Petitioner and the victim girl are present in
Chambers today.

Father of the victim girl is also present.

Victim girl has stated that she is living with the
petitioner after performing marriage with him in Puran Devi
Mandir at Purnia, but she has not produced any certificate in
respect of such marriage.

Petitioner has stated that he has performed marriage



on 12.09.2016 at Puran Devi Mandir.

Father of the victim girl has submitted that petitioner is already married and he is having two children; youngest son of the petitioner is aged about 20 years. He has further submitted that he has enticed his daughter, who is minor. He has produced her Birth Certificate in which her date of birth is mentioned as 03.07.2005. Xerox copy of the birth certificate has been annexed with Counter Affidavit. Father of the victim girl has stated that he wants to keep the daughter with him, but the girl has stated that she does not want to go with him. She wants to live with the petitioner.

Counsel for the victim girl has submitted that the girl has been medically examined in which her age has been assessed between 16-17 years on 28.09.2016.

This Court is, at present, hearing anticipatory bail application of the petitioner.

After talking with victim girl, it appears that she is living with the petitioner and wants to live with him.

Counsel for the informant has submitted that victim girl is minor. She cannot perform valid marriage with the petitioner. He has further submitted that father of the victim is ready to keep her with him.



This Court, at the stage of hearing of anticipatory bail application, finds that victim girl has come with the petitioner and she wants to live with the petitioner. No order can be passed at this stage for determination of age of the victim girl.

Since the girl has not complained against the petitioner and she wants to live with him, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Banmankhi P.S. Case No.138 of 2016**, he shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **1st Additional Sessions Judge, Purena**, subject to the conditions as laid down under Section 438(2) Cr. P. C. with further conditions: (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and his absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.



Father of the victim girl is at liberty to file necessary petition in the Court below for custody of the girl on the ground of minority and the Court below will pass appropriate order in accordance with law after determining the age of the victim girl in the event victim girl is found to be minor.

Father of the victim girl may file such a petition within a period of one month from the date of receipt of this order in the Court below and thereafter the Court below will pass appropriate order in accordance with law within a period of three months from the date of filing of such petition.

(Sanjay Priya, J)

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