

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33486 of 2019

Arising Out of PS. Case No.-242 Year-2018 Thana- BIHRA District- Saharsa

VIVEK KUMAR @ MITHU Son of Yogendra Kumar @ Yogendra Sharma
Resident of Village - Bara, P.S.- Bihra, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma

For the Opposite Party/s : Mr.Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 17-08-2019 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks regular bail in connection with Special POSCO (POA) Case No. 55 of 2018 arising out of Bihra P.S. Case No. 242 of 2018, registered for the offence punishable under Sections 363, 366(A) of the Indian Penal Code and Section 8 of POCSO Act.

The case of the prosecution is that the daughter of the informant aged about 15 years had gone to her school for study, however, when she did not come back after closure of the school, search was made whereupon it transpired that the petitioner herein and one other person had taken the daughter of the informant in a red colour vehicle towards Saharsa. It is the further case of the informant that he along with his family



members had gone to Saharsa, but could not find the victim girl, hence, they returned back to their home. Subsequently, it transpired that the petitioner herein had kidnapped the victim girl i.e. the daughter of the informant and had taken her to his friend's place.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and the fact is that the petitioner has married the victim girl and they are staying together, as is apparent from the affidavit sworn by the victim girl dated 28.1.2019, annexed as Annexure 3 to the present petition. It is further submitted that the petitioner is having a clean antecedent and he is languishing in custody since 6.2.2019.

I have heard the learned counsel for the petitioner, as also the learned APP for the State and I find that the victim girl, in her statement made under Section 164 Cr.P.C. dated 4.2.2018, before the learned Magistrate, has clearly alleged that the petitioner had forcibly taken her away and had committed wrong act with her, as also had solemnized marriage against her wishes by threatening her that he would engage in committing harm to her and her family members. While the statement of the victim girl under Section 164



Cr.P.C. is dated 4.2.2018, the so-called affidavit annexed to the petition claiming to be that of the victim girl is dated 28.1.2019 i.e. of a much later date, hence, has got no evidenciary value in the eyes of law. Nonetheless, the fact remains that prima facie, the petitioner is alleged to have kidnapped a minor girl and is also stated to have committed illegal and wrong act with her which is a heinous crime, hence, this Court finds that the petitioner does not deserve to be granted bail, thus, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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