

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42835 of 2019

Arising Out of PS. Case No.-94 Year-2019 Thana- CHAUTHAM District- Khagaria

Diwana Kumar, Aged about 20 years, Male, Son of Dular Chandra Sah @
Dularchand Sah, Resident of Village Fareh, P.S. Chautham, District Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bishweshwar Ram

For the Opposite Party/s : Mr.Shailendra Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 11-07-2019 Heard both sides.

Petitioner apprehends his arrest in Chautham P.S.
Case No.94 of 2019, registered under Sections 366(A) and 34 of
the Indian Penal Code.

The mother of the victim disclosed that Chandramila
Devi, wife of Dularchand Sah came to her house and took her
daughter on the pretext of worship but her daughter did not
return. During the course of search, the informant came to know
from Mamta Devi, sister-in-law of the informant, that Diwana
Kumar, the petitioner and Shyam Kumar were taking on a
motorcycle.

Learned counsel for the petitioner submits that the
petitioner is the next door neighbour of the informant. The
victim accompanied the petitioner as there was love affair



between the victim and the petitioner. The victim made her statement under Section 164 Cr.P.C. and she disclosed that while she had gone outside her house to take water, the petitioner forcibly took her to Saharsa. It is submitted that from the statement of the victim, it would appear that the victim did not raise any protest while she was being taken to different places from her house and this fact goes to show that the victim was a consenting party. The doctor found the age of the victim between 16 to 18 years but it appears that the victim is a minor girl. She disclosed her age to be 17 years before the Judicial Magistrate. The court also assessed the age of the victim to be 17 years.

Taking into consideration the fact that the victim was minor and her consent appears to be immaterial, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for bail of the petitioner is rejected.

(Prabhat Kumar Jha, J)

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