

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52473 of 2019

Arising Out of PS. Case No.-442 Year-2018 Thana- MAIRWAN District- Siwan

SAWAN BHAGAT @ SAWAN KUMAR @ SHARVAN KUMAR Son of
Pawhari Bhagat @ Pahvari Bhagat Resident of Mohalla - Shankara, Railway
Station Near Dal Mil, P.S.- Mairwa, District - Siwan.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Opposite Party/s : Mr.Md. Fahimuddin

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 22-08-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of
Mairwa P.S. Case No. 442 of 2018, disclosing offences under
Sections 363 and 366A/ 34 of the Indian Penal Code.

The FIR was lodged on 13.11.2018, alleging that the
petitioner had kidnapped the informant's minor daughter, aged
16 years. There is allegation in the FIR that the victim was
enticed by the petitioner and taken away for marriage. The
victim was missing since 02.11.2018, as is evident from the
FIR. The victim has been recovered and her statement has been
recorded under Section 164 of the Cr. P.C., wherein she has
alleged that on 02.11.2018 the petitioner had forcibly taken her
firstly to his aunt's house, where she was made to stay for ten



days and thereafter to the house of his sister, where also she stayed for 10 days. There is allegation that the petitioner established physical relationship with her, in the meanwhile.

Learned counsel for the petitioner has submitted that the allegation in the FIR that the victim was a minor, aged 16 years, is falsified by the certificate of the alleged victim, issued by the Bihar School Examination Board, of having passed the secondary school examination in 2015, wherein her date of birth has been recorded as 22.05.1998. He has also submitted that, as a matter of fact, the petitioner and the alleged victim had applied for court marriage before the Special Marriage Officer, Deoria, in the district of U.P. on 26.11.2018. However, since the family members of the victim were not agreeable to her marriage with the petitioner, a false case has been registered.

Considering the facts and circumstances, particularly the delayed institution of the FIR and the date of birth of the victim, recorded in the certificate, issued by the Bihar School Examination Board, this application is allowed.

Let the petitioner, above named, in the event of his arrest/surrender within six weeks from today in the court below, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each, to the



satisfaction of the learned Chief Judicial Magistrate, Siwan in connection with Mairwa P.S.Case No. 442 of 2018, subject to the condition as laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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