

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52944 of 2019

Arising Out of PS. Case No.-367 Year-2018 Thana- DARBHANGA SADAR District-
Darbhanga

=====

Ashu Kumar Son of Sudhir Kumar Rai @ Sudhir Kumar Raut Resident of
Village- Chapahi, Police Station- Raj nagar, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Girish Chandra Jha
For the Opposite Party/s : Mr.Shailendra Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 16-11-2019 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 365 and
366A/34 of the Indian Penal Code.

The prosecution case is of kidnapping the daughter of
the informant namely, Beauty Kumari.

It is submitted by learned counsel for the petitioner
that though the victim has named the petitioner in her statement
recorded under Section 164 Cr.P.C. along with others but
nothing specific has been alleged against the petitioner.
However, subsequently, she has alleged that co-accused
Raushan Kumar established forceful physical relationship and



Raushan Kumar has been granted anticipatory bail by a Co-ordinate Bench of this Court vide Cr. Misc. No. 38519 of 2019 since he was not named by the victim in statement recorded under Section 164 Cr.P.C. statement. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant and State after going through the case diary submits that the petitioner has been named by the victim in her statement recorded under Section 164 Cr.P.C. The victim has been found minor hence, the provisions of POCSO Act has been added subsequently. In the circumstances, this petitioner does not deserve anticipatory bail.

So far as the accusation of kidnapping is concerned, the same has been supported by the victim in her subsequent statement recorded under Section 164 Cr.P.C., this Court is not inclined to grant anticipatory bail to the petitioner in connection with Sadar P.S. Case No. 367 of 2018, pending in the Court of learned Chief Judicial Magistrate, Darbhanga, but keeping in view the inconsistent stand of the victim and levelling accusation of forceful physical relationship with co-accused Raushan Kumar subsequent statement under Section 164 Cr.P.C. where she has tried to save co-accused Raushan Kumar by not



naming him, such 164 Cr.P.C. statement cannot be treated to be,
prima facie, sacrosanct.

In that view of the matter, let the learned Court below
consider the prayer for regular bail of the petitioner.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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