

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5769 of 2020**

Arising Out of PS. Case No.-344 Year-2019 Thana- JOGAPATTI District- West Champaran

ADARSH KUMAR DUBEY @ ADARSH DUBEY Son of Alok Kumar Dubey @ Alok Dubey Resident of Village- Kathari, P.S.- Sathi, District- West Champaran. Petitioner

Versus

The State of Bihar Opposite Party

with

CRIMINAL MISCELLANEOUS No. 5996 of 2020

Arising Out of PS. Case No.-344 Year-2019 Thana- JOGAPATTI District- West Champaran

NIDHI KUMARI D/o Alok Kumar Dubey @ Alok Dubey Resident of Village- Kathari, P.S.- Sathi, Distt- West Champaran. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 5769 of 2020)

For the Petitioner/s : Mr. Bashisht Narayan Mishra, Advocate

Mr. Sachida Nand Rai, Advocate

For the Informant : Mr. Vimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Lalan Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 5996 of 2020)

For the Petitioner/s : Mr. Bashisht Narayan Mishra, Advocate

Mr. Sachida Nand Rai, Advocate

For the Informant : Mr. Vimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Lalan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 26-06-2020 Cri. Misc. No. 5769 of 2020 being listed at Sr. No. 5

was taken up for consideration. Mr. Bashisht Narayan Mishra, learned counsel representing the petitioner informed that in Cri. Misc. No. 5996 of 2020 (listed at Sr. No. 81) filed by co-accused Nidhi Kumari who is sister of the petitioner of Cri. Misc. No. 5769 of 2020 case diary has been called for by learned Coordinate Bench of this Court and the same is available on the record, hence, both the cases may be taken up together. In Cri. Misc. No. 5996 of



2020 the learned Coordinate Bench has granted provisional bail to the said petitioner vide order dated 28.02.2020.

With the consent of the learned APP for the State and learned counsel for the informant both the matters have been taken up together.

Cri. Misc. No. 5769 of 2020

This application has been preferred by the petitioner seeking anticipatory bail in connection with Yogapatti P.S. Case No. 344 of 2019 registered for the offences under Sections 363, 366(A)/34 of the Indian Penal Code and under Section 8 of the POCSO Act.

Learned counsel for the petitioner submits that on perusal of the first information report it would appear that the present FIR has been lodged almost one year after the daughter of the informant went missing. According to the informant his daughter aged about 15 years had gone to attend her tuition on 16.10.2018 but did not return. On search nothing could be known about her. It is then alleged that about three months back from one mobile no. 6203511156 a call was received saying that the victim girl was with the caller, he disclosed his name as Adarsh Dubey son of Alok Dubey. The informant claims that thereafter he went to the house of Alok Dubey, met him, the mother, brother, sister and the petitioner but all of them said that this petitioner had brought



the victim girl with an intention to marry and they asked the informant to go away. It is alleged that for many days Alok Dubey kept on giving promise that his son would marry the victim girl but now he is denying and asking the victim girl to go to her house.

Learned counsel submits that apparently the informant did not lodge any information with the police station either on 16.10.2018 or after he received the alleged mobile call about three month back. The FIR has been lodged on 07.09.2019. This huge delay in lodging of the FIR, according to the learned counsel raises grave doubt on the prosecution story as no reasonable person would wait for about one year to report about his missing daughter.

Learned counsel further submits that the victim girl has been examined by the investigating officer. She came out with a totally different story. It is submitted that the victim girl has stated that she was aged about 19 years and was in love affair with the co-accused Ajay Pandey who had called her in the month of November 2019 on the pretext of marriage and then she left her house, went Bettiah station from where she went along with said Ajay Pandey and his brother Vicky Pandey. She has alleged against them that both the brothers have been making physical relationship with her. He has further alleged that when their



mother was going to Delhi the victim asked her to arrange marriage whereupon she was thrown out from the house. She was also produced before the learned Magistrate and her statement was recorded under Section 164 Cr.P.C.

In the supervision note which is available on the record particularly the report no. II, it appears that in her statement under Section 164 Cr.P.C. also, she has reiterated her statement made before the police.

Learned counsel, therefore, submits that it is a case of false implication as the father of the victim wanted to marry the victim girl with this petitioner but then she had fled away with her boyfriend and after she came back the petitioner was being pressurised to marry her. The entire family including unmarried sister of this petitioner has been made accused in this case.

Learned APP for the State as well as learned counsel for the informant have opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the informant submits that the petitioner had been keeping the daughter of the informant on the pretext of marriage but later on he refused to marry her.

Having heard learned counsel for the petitioner, learned APP for the State and learned counsel for the informant and on perusal of the case diary, this Court has noticed that in the case diary the own relations of the informant have made statement in



paragraph '118' (Sheela Devi) who is *Bua* of the victim girl, in paragraph '119' (Veena Devi) who is aunt of the victim girl and uncle of the victim girl has also been examined and all of them have stated that victim girl had fled away on 16.10.2018 but it could not be known where she had gone. The CDR of the mobile from which the alleged call was received three months back from the date of lodging of the FIR has been collected. The said mobile has been found to be in the name of somebody else. In these circumstances, the delay of about one year in lodging of the FIR becomes important and that leads to this Court being inclined to grant privilege of anticipatory bail to the petitioner, let the petitioner above named in the event of his arrest or surrender within a period of four weeks from today in connection with Yogapatti P.S. Case No. 344 of 2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or



indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

Cri. Mis. No. 5996 of 2020

The petitioner has already been granted provisional bail by the learned Coordinate Bench of this Court vide order dated 28.02.2020. There being absolutely no material against the petitioner in the case diary, in view of the discussions made in Cri. Misc. No. 5796 of 2020, let the provisional bail granted to the petitioner is hereby confirmed.

Both the applications stand disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

