

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7030 of 2020

Arising Out of PS. Case No.-269 Year-2019 Thana- BELHAR District- Banka

GIRISH MANJHI Son of Late Baldev Manjhi Resident of Village - Belhar
Basti, P.S.- Belhar, Distt - Banka.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad
For the Opposite Party/s : Mr.Ashraf Ansari

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 03-06-2020 The present case was heard at length on 29.05.2020
and it has been listed today “For Orders”.

The petitioner seeks regular bail in connection with
Belhar P.S. Case No. 269 of 2019 (Corresponding to G.R. No.
119 of 2019) for the offence punishable under Sections
366(A), 376 of the Indian Penal Code and 4 of POCSO Act.

The case of the prosecution, as per the written
report of one Rekha Devi, is that on the date and time of
occurrence her minor daughter was kidnapped by the
petitioner herein and it is alleged that the petitioner has
established physical relationship with the minor daughter of
the informant.

The learned counsel for the petitioner has submitted
that the petitioner is innocent and has been falsely implicated



in the present case. It is further submitted that the petitioner is having a clean antecedent and is languishing in custody since 02.09.2019. Lastly it is submitted that a bare perusal of the statement of the victim girl made under Section 164 Cr. P.C. before the learned Magistrate would show that the victim girl has disclosed that the petitioner had taken her forcibly to the house of his maternal grandmother at Barsilla, where they had stayed for one night, however, the petitioner had not engaged in any illicit act, whereafter he had taken the victim girl by tempo to Dhoormutha at his sister's place where they also stayed for one night and then they had gone to Jamalpur and stayed at the Station during the night and thereafter they had gone by Bus to Chananiya where they had stayed for one night and there the petitioner had engaged in wrong doing with the victim girl and then the petitioner had brought the victim girl to his house, however, it has been stated by the victim girl that her mother had forcibly brought her from the house of the petitioner although the petitioner was not allowing her to go away. Lastly, the learned counsel for the petitioner has submitted that the age of the victim girl has been found to be in between 17-19 years in radiological and medical examination and the medical report shows that there is no



evidence of any struggle or injury on the person or private part of the victim girl and there is old rupture of hymen.

Per contra, the learned APP appearing for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties, perused the materials available on record as also gone through the case diary.

This Court finds that the age of the victim girl has been assessed in between 17-19, upon radiological and medical examination, thus it is a boarder line case and probably POCSO Act would not be attracted. The medical examination report of the victim girl also shows that the doctor has opined that no sign of struggle or injury was found on any part of the victim girl except old rupture of hymen. This Court further finds from perusal of the case diary as also from the statement of the victim girl, recorded under Section 164 Cr. P. C., before the learned Magistrate that though the petitioner was travelling freely with the victim girl from one place to another place but the victim girl had never opposed the same and in fact had also mentioned that she was taken away forcibly from the house of the petitioner by her mother, hence, considering such circumstances of the case as also upon



perusal of the materials available in the case diary, benefit of doubt is required to be extended to the petitioner in so far as consideration of the case of the petitioner for grant of regular bail is concerned, thus this Court deems it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the petitioner, above named, is directed to be released on regular bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1, Banka in connection with Belhar P.S. Case No. 269 of 2019 (Corresponding to G.R. No. 119 of 2019).

The present petition stands allowed.

(Mohit Kumar Shah, J)

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