

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18295 of 2020

Arising Out of PS. Case No.-148 Year-2013 Thana- MAJHAULIA District- West Champaran

=====

KHUSBUDIN MIYA @ KHUSBU ALAM Son of Saheb Alam Resident of
Village - Semra Ghat, P.S.- Majhauriya, District - West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s :	Mr.Bimlesh Kumar Pandey
For the Opposite Party/s :	Mr.Dashrath Mehta
	Mr. Ashok Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 10-11-2020 Heard the learned counsel for the petitioner and

Shri Ashok Kumar, the learned A.P.P. appearing for the State.

The petitioner seeks regular bail in connection with

Majhauriya P.S. Case No. 148 of 2013 for the offence

punishable under Sections 366A/34, 366, 376(2)g/120B of the

Indian Penal Code.

The case of the prosecution in brief is that in the

night of 06.04.2013 at about 11 PM, the wife of the informant

had fled away from her house, leaving behind her children and

when the informant received information about his wife having

left her house, he came back from Deemapur, Assam and started

searching of his wife, but she could not be traced, however,

subsequently, it transpired that some unknown young persons



had called upon the mobile phone of his wife and had asked her to come out of her house, whereafter they had kidnapped her.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is languishing in custody since 16.11.2019. It has been further submitted that it has transpired during the course of investigation that the wife of the informant was residing with the petitioner in Nepal in a rented house and when she was returning back to India, she was recovered, which amply demonstrates that the wife of the informant had left her house on her own sweet will and was willingly living with the petitioner, as such no offence, as alleged, is made out.

Per contra, the learned Additional Public Prosecutor, appearing for the State, has vehemently opposed the prayer for bail of the petitioner.

I have heard the learned counsel for the parties, perused the materials on record and have gone through the case diary in question. It is apparent from the investigation conducted by the police that prima facie the petitioner has been found to be having complicity in the alleged occurrence and moreover, the victim lady in her statement made under Section 164 Cr. P.C.,



before the Ld. Magistrate, has not only corroborated the factum of her being kidnapped by the petitioner and others but has also stated therein that the petitioner had established sexual relationship with her, whereafter his four friends had also raped her from time to time.

Considering the materials available in the case diary coupled with the statement made by the victim lady under Section 164 Cr. P.C., before the learned Magistrate, it is apparent that prima facie, the petitioner has been found to have committed a heinous crime of not only kidnapping the wife of the informant but also raping her along with his friends, hence, I do not find the present case to be a fit case for grant of bail, thus the instant petition stands dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

U		T	
---	--	---	--

