

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19081 of 2020**

Arising Out of PS. Case No.-15 Year-2020 Thana- LODIPUR District- Bhagalpur

BHOLA ROY @ NAWAL KUMAR Son of Pawan Roy Resident of Village -
Diyara, P.S.- Lodipur, Distt.- Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh

For the Opposite Party/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 10-04-2020 Filing through *e-mail* of the present application has been accepted in view of the Nation passing through twenty-one days' lock down as an aftermath of the outbreak of COVID-19 pandemic and has been posted before me for hearing through video-conferencing, under the orders of Hon'ble the Chief Justice

The filing of the present application is apparently not in accordance with the provisions prescribed under the Patna High Court Rules, which do not contemplate filing of applications through *e-mail*. Despite that, considering the extraordinary situation, filing of the application has been allowed through *e-mail*. Understandably, in that background, the present application has been found to be defective and several defects have been pointed out by the Stamp Reporter. Considering the situation prevailing, the Court has considered it



just, for the present, to ignore the deficiencies in filing of the application.

This application has been filed seeking anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Lodipur P.S. Case No. 15 of 2020, registered for the offence punishable under Sections 363 and 366A/34 of the Indian Penal Code.

Father of the alleged victim is the informant and it appears from the First Information Report that the contents of the written statement of the informant are based on the information, which he had allegedly gathered from the victim on mobile-phone on 16.01.2020. It is alleged in the First Information Report that the informant's daughter had gone to attend her school on 09.01.2020, where she was studying in Class XII, but she did not return home, thereafter. According to the informant, a co-accused Vidyot Kumar Rai had kidnapped in the informant's daughter and the petitioner and another co-accused had accompanied the main accused.

Mr. Swapnil Kumar Singh, learned counsel appearing on behalf of the petitioner, argues that the victim was apprehended subsequently by Mahila P.S. Bhagalpur, where her statement was recorded. Her statement was recorded



subsequently under Section 164 of the Code of Criminal Procedure also, copies of which have been annexed with the application. From the said statements it is easily discernible that the victim was not kidnapped rather she had gone with the main accused out of her own volition with clear intent to marry him, he contends. He has further submitted that in any view of the matter, the main allegation is against co-accused Vidyo Kumar Rai. According to him, the statement of the victim, recorded before the Police Officer and before the Court under Section 164 of the Code of Criminal Procedure, belies completely the case of the prosecution.

On perusal of the First Information Report and the documents referred to by learned counsel for the petitioner, as noted above, I find merit in the submission made on behalf of the petitioner. This application is accordingly allowed.

Let the petitioner, above named, in the event of his arrest/surrender be released on his personal bond in connection with Lodipur P.S. Case No. 15 of 2020, subject to the conditions 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 bond shall be liable to be cancelled.

It is made clear that this order is subject to removal of all the defects, pointed out by the Stamp Reporter, within two months from today. It is also made clear that since the order has been passed in the absence of any counsel for the State of Bihar, it will be open for the State of Bihar/informant to apply for cancellation of bail granted by the present order, if, according to them, grant of anticipatory bail has prejudiced them in any manner.

Since there is a lock down, the Court has considered it appropriate to adopt following procedure for communication of the present order :-

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my *e-mail* I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my *e-mail* I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall



be preserved in my residential-office for documentation and future use, if any.

(iv) The said order shall be communicated to the Court below for the needful by the Secretary through *e-mail*.

(v) Let a copy of the order be sent to Mr. Singh learned counsel for the petitioner also on his *e-mail* address.

Let steps betaken by the Registry for uploading of the present order without compromising with the norms of social-distancing.

(Chakradhari Sharan Singh, J)

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