

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 20930 of 2020

Arising Out of PS. Case No.-395 Year-2017 Thana- AAZAM NAGAR District- Katihar

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Md. Najmul @ Md. Najbul, aged about – years, s/o Saifuddin, resident of
Village-Dhabol, P.S. Pranpur, District-Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Pandey, Advocate

For the Opposite Party/s : Ms. Renuka Ratnakar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-09-2020

The matter has been heard *via* video conferencing due
to circumstances prevailing on account of the COVID-19
pandemic.

2. Heard Mr. Jitendra Kumar Pandey, learned counsel
for the petitioner and Ms. Renuka Ratnakar, learned Additional
Public Prosecutor (hereinafter referred to as the ‘APP’) for the
State.

3. The petitioner is in custody in connection with
Aazam Nagar PS Case No. 395 of 2017 dated 01.12.2017,
instituted under Sections 366/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he had



abducted the daughter and grandson of the informant from her house and had taken her to Delhi and was demanding money to bring them back.

5. Learned counsel for the petitioner submitted that the whole case is concocted and the daughter of the informant had on her own sweet will gone with another person, namely Salahuddin, who has also been mentioned in the FIR. It was submitted that the girl upon her return has given her statement to the police that the petitioner had taken her to Delhi but she was kept in the house of Salahuddin and then Salahuddin brought her back to the village and left her and then she had come to the police and had given her statement to the police. It was submitted that in the statement to the Court under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') she has made out completely new case that it was the petitioner who had forcibly abducted her and her son from the house and taken her to Delhi and kept her in his house and had committed wrong with her and then he had brought her back to the village from Delhi and left her in the house of Salahuddin. Learned counsel submitted that the story is unbelievable as in the statement to the Court under Section 164 of the Code the girl has alleged that she was pulled through the



window of the house, which is totally unbelievable and further, that on way to Delhi also she did not raise any cry because the petitioner had threatened her. It was submitted that this cannot be believed as there are many passengers on the train and there must have been times when the petitioner would have left her for attending to the call of nature and it was very easy for the girl to either inform the fellow passengers or even the police party which regularly keeps moving in the train. Learned counsel further submitted that taking an overall view, it is apparent that the girl herself, without any threat or coercion or being abducted, had gone away as in the FIR her mother has alleged that she has taken away Rs. 25,000/-, which, if true, further falsifies the prosecution story, for the simple reason that an abducted person could not have taken such heavy amount of cash if she was being abducted. Moreover, it was submitted that she herself before the police has stated that she was with Salahuddin and he had brought her to the village and only after giving her statement to the police, when she went to her mother's house, thereafter, in her statement under Section 164 of the Code she has tried to support the version in the FIR, which is totally opposite to what she had stated before the police. It was further submitted that the version in the FIR is



also patently false as no prudent person would believe that somebody would come to the house of the informant and say that he had abducted her daughter and grandson and taken them away and kept them with somebody and that if money was given he would bring them back which strongly indicates that the entire case is untrue and instituted with *mala fide* intention for oblique reasons. It was submitted that the parties are related to each other and because of there being some matrimonial dispute between some of the family members, the petitioner has been made accused and falsely implicated in the case. Learned counsel submitted that the petitioner does not have any other criminal antecedent and had himself surrendered before the Court on 18.12.2019.

6. Learned APP, from the case diary, submitted that the petitioner is alleged to have kidnapped the daughter and grandson of the informant and had also committed wrong act with her. However, he did not controvert the fact that the statement of the girl to the police and before the Court under Section 164 of the Code are totally different.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of



Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Katihar in Aazam Nagar PS Case No. 395 of 2017, subject to the conditions that (a) one of the bailors shall be a close relative of the petitioner and (b) that the petitioner shall cooperate in the matter, both with the police/prosecution and the Court. Failure to do so shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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