

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25579 of 2019

Arising Out of PS. Case No.-398 Year-2018 Thana- TAJPUR District- Samastipur

PHUL CHAND SADA Son of Budhan Sada, Resident of Village-Rariyahi,
P.S-Tajpur, District-Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surya Narayan Roy

For the Opposite Party/s : Mr.Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 14-08-2020 The court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and the
State.

The petitioner is languishing in custody sine
15.12.2018, in a case registered for the offences punishable
under Sections 363 and 366A/34 of the IPC.

The prosecution case, as per the written report of
Satrudhan Pandit, submitted to the Station House Officer, Tajpur
Halai (O.P.) is to the effect that on 19.10.2018 at about 10 A.M.,
the daughter of the informant (name changed - 'X'), aged about
17 years was returning from a local fair, but on the way, all the
FIR named accused persons including the petitioner kidnapped
her for the purposes of marriage, leading to registration of FIR



on 08.11.2018.

Learned counsel for the petitioner submits that the victim in her statement recorded under Section 164 Cr. P.C., got her age recorded as 17 years whereas the Court also assessed her age as such, wherein the victim has stated that all the three FIR named accused persons kidnapped her and the petitioner ravished her. For one month, the victim was kept at Vishakhapattanam but thereafter she escaped from the custody of the petitioner. It is further submitted that during medical examination, the age of the victim was found as 18 years and no sign of rape has been found on the victim. The victim has returned of her own and has not been recovered from the possession of the petitioner. The petitioner claims that the victim solemnized marriage with him on her own sweet will. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functioning in physical mode, there is no likelihood of the trial being concluded in near future.

Learned counsel for the State submits that the specific accusation is against the petitioner and he is named in the FIR and the victim is a minor girl.



Considering the delayed lodging of the FIR, the fact that medical report does not suggest any injury particularly the injury on the private part of the victim suggesting the accusation of rape and the statement made in paragraph no.3 of the petition to the effect that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ACJM-1, Samastipur, in connection with Tajpur (Halai O.P.) P.S. Case No. 398 of 2018.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two



sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned ACJM-1, Samastipur, in connection with Tajpur (Halai O.P.) P.S. Case No. 398 of 2018.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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