

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30836 of 2020**

Arising Out of PS. Case No.-121 Year-2019 Thana- BAJPATI District- Sitamarhi

MD. FAIZAL @ FAIZAL @ FAIZAL ALI Son of Abdul Badri @ Abdul Barik Resident of Village - Harpurwa ward no. - 1, P.S. - Bajpatti, Dist. - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate.

For the Opposite Party/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

2 04-12-2020 This matter has been taken up in virtual court.

Let the defects be removed within 15 days of the start of the physical Court.

Heard the parties.

The petitioner is languishing in custody for the offence punishable under Sections 363/366(A)/34 of the Indian Penal Code.

Allegation against the petitioner is that he kidnapped to the minor daughter of the informant. The F.I.R. of the occurrence dated 20.04.2019 was lodged on the same day. After recovery, the statement of the victim girl was recorded under Section 164 Cr.P.C., wherein she disclosed her age as 18 years and the learned Magistrate has also assessed her age as 18 years. The victim stated



that the petitioner took her to Darbhanga saying that the petitioner would marry with her and thereafter the petitioner was in physical relation with her for 15 days and then left her at Sitamarhi.

Then another case was lodged on 13.06.2019 on the statement of the informant of this case bearing Bajpatti P.S. Case No. 193 of 2019. In this case, informant alleged that the victim was again kidnapped by the petitioner and the petitioner is demanding ransom for release of the victim. Again after recovery of the victim, her statement under Section 164 Cr.P.C. was recorded on 30.07.2019, a copy at Annexure-4, wherein she stated that she voluntarily married with the petitioner. She disclosed her age as 19 years and the learned Magistrate has assessed her age as 18 years.

Learned counsel for the petitioner submits that the victim was a minor and the matter was of love affairs and the parties have compromised.

Even sexual intercourse with wife below age of 18 years is rape as defined under Section 375 of the Indian Penal Code. Moreover, the offence is not compoundable.

Considering the nature of allegation against the petitioner who is in custody since last one year, I am not inclined to enlarge the petitioner on bail in connection with Bajpatti P.S. Case No. 121 of 2019.



Hence, prayer for bail is refused.

If the parties cooperate, the trial court is expected to dispose of the trial within a period of three months without allowing unnecessary adjournment in the matter.

(Birendra Kumar, J)

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