

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61130 of 2019

Arising Out of PS. Case No.-166 Year-2019 Thana- JOGAPATTI District- West Champaran

Mukesh Yadav, Son of Chokat Yadav, Resident of Village - Dhabelawa, P.S.-
Yogapatti, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra, Advocate
For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 12-06-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner is apprehending his arrest in connection with Yogapatti P.S. Case No.166 of 2019 registered for the offence punishable under Sections 363, 366A of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act.



The informant has alleged that on 22.04.2019 when his daughter aged 13 years had gone to attend the call of nature, the petitioner abducted her for the purpose of solemnizing marriage. It is alleged that when the informant went to the house of the petitioner to complain regarding abduction, all the family members abused him and got infuriated.

Learned counsel for the petitioner submits that the alleged victim had herself deposed before the Magistrate under Section 164 Cr.P.C. on 15.05.2019 i.e., within less than a month from the alleged date of occurrence. It is submitted that the petitioner has falsely been implicated. The same is apparent from the fact that as per the medical examination, the alleged victim's age has been assessed as 19 years. The victim in her statement under Section 164 Cr.P.C. has claimed herself to be 22 years old, which is evident from the deposition of the victim recorded under Section 164 Cr.P.C., original of which has been received in sealed cover along with the case diary. The victim in her statement has clearly stated that she had gone with the petitioner on her own volition. She has also stated about marrying the instant petitioner and she wants to live with him. The statement apparently has been recorded in presence of the mother of the alleged victim, by the Judicial Magistrate.



Learned APP for the State has opposed the prayer for pre-arrest bail submitting that the petitioner is a named accused.

Considering the rival submissions, this Court is inclined to allow the prayer made on behalf of the petitioner for grant of anticipatory bail.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST/POCSO) Act, Bettiah, District-West Champaran, in connection with Yogapatti P.S. Case No.166 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(I) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his



bail bond will be liable to be cancelled.

The original copy of the statement recorded under
Section 164 Cr.P.C. may be returned to the court concerned, in a
sealed cover.

(Madhuresh Prasad, J)

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