

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70405 of 2019

Arising Out of PS. Case No.-13 Year-2019 Thana- DAGARUA District- Purnia

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Awinash Bishwas @ Avinash Vishwas Son of Dhiren Bishwas @ Dharendra Vishwas, Resident of Village - Mahthour, P.S.- Dagarua, Dist.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md. Ziaul Quamar, Advocate

For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 14-08-2020 The Court proceeding has been conducted through virtual mode.

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

The petitioner is languishing in custody since 29.04.2019 in a case registered for the offences punishable under Sections 363, 366A/34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, hence, the prayer for bail has been made through the present application.

The prosecution case as per the written report of Arvind Sah submitted to the Station House Officer, Dagarua Police Station, is to the effect that on 21.01.2019 at 4.00 P.M., the daughter of the informant went missing and she did not



return till late evening. Thereafter, the informant made enquiry and came to know that she has been kidnapped by the petitioner, Awinash Bishwas and co-accused Chamru Bishwas and Santosh Bishwas for the purposes of marriage. Thereafter, on next day the written report was lodged, leading to registration of the present case.

It is submitted by learned counsel for the petitioner that the victim in her statement recorded under Section 164 Cr.P.C. stated that she was kidnapped by the petitioner but she has not stated that where she had been in the company of the petitioner which clouds the bonafide of the statement of the victim. From the statement of the victim recorded under Section 164 Cr.P.C. it appears that she returned on her own and has not been recovered from the custody of the petitioner. The victim got her age recorded as 18 years when the Court assessed her age as 20 years. During medical examination the victim was found 17-18 years of age but no sign of rape was found. The petitioner claims to have performed marriage with the victim and the affidavit has been sworn by the victim, the same has been brought on record as Annexure-4 along with the photographs of the marriage. A statement has been made in paragraph no.3 of the petition that the petitioner is not having



any criminal antecedent.

Learned APP for the State submits that the thrust of accusation is against the petitioner and in 164 Cr.P.C. statement the victim has specifically alleged that she was kidnapped by the petitioner.

Considering the fact that in her statement recorded under Section 164 Cr.P.C. the victim got her age recorded as 18 years when the Court assessed her age as 20 years, the medical report suggests that she was found 17-18 years of age and no sign of rape was found during medical examination, coupled with the fact that the victim returned on her own, 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 1st Additional Sessions Judge -cum- Special Judge, POCSO Act, Purnea in connection with Dagarua P.S. Case No. 13 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon 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 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 the learned 1st Additional Sessions Judge -cum- Special Judge, POCSO Act, Purnea in connection with Dagarua P.S. Case No. 13 of 2019.

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

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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