

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64932 of 2019

Arising Out of PS. Case No.-35 Year-2019 Thana- KARJAIN District- Supaul

Rajesh Kumar Sharma Son of Sri Rashik Lal Sharma Resident of Village -
Dahgama, Ward No. 2, Tola - Leel Mohini, P.S.- Karjain, Distt - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashok Mehta Son of Late Jagdish Mehta Resident of Village - Dahgama,
Ward No. 3, , P.S.- Karjain, Distt - Supaul.
3. Rani Kumari D/o Sri Ashok Mehta Resident of Village - Dahgama, Ward
No. 3, P.S.- Karjain, Distt - Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate
For the Opposite Party/s : Mr. Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 04-03-2020 The petitioner seeks bail in connection with
Karjain P.S. Case No. 35 of 2019 dated 09.04.2019
instituted for the offences under Sections 366/34 of the
Indian Penal Code.

The informant is the father of the victim girl
who has alleged that the petitioner took her away for the
purposes of solemnizing marriage with her. The
informant has disclosed the age of his daughter as 19
years.

It is the claim of the petitioner that the victim
girl had voluntarily gone with him and had solemnized
marriage in a temple.

Had it not been the case, the FIR would not



have been lodged after twenty days of the missing of the daughter of the informant.

Learned counsel for the petitioner therefore argues that the informant was aware of the fact that his daughter had some relation with the petitioner and therefore he had kept quiet and did not inform the police about his daughter going missing.

However, a disturbing fact has been noticed in the records of this case viz. the 164 statement of the victim girl. In her 164 statement, though she has disclosed herself to be a major, but has alleged that she was administered an injection, which took away her consciousness and when she awoke, she found herself in a bus. She has also alleged that she was confined in a room by the petitioner who always pressurized her to marry him. Later, with the intervention of someone, she could come to her parents' house.

What can easily be discerned from the above 164 statement is that she has not alleged any sexual misdemeanor against the petitioner.

Learned counsel for the petitioner, on the basis of the aforementioned facts has submitted that the marriage of the victim with the petitioner was not acceptable to the family of the informant and when the victim came back to her parental home, she was made



to understand that she will get a better match than the petitioner. It is only after this that the present case has been lodged and an accusing statement has been made by the victim in her 164 statement on the tutoring of her parents.

It has further been urged that if this were not true, the victim also would have made hue and cry before she was subjected to the ritual of marriage in a temple.

Assuming but not admitting the fact that some kind of marriage was performed between the petitioner and the victim girl, the victim remained in company of the petitioner for a long time. If it were not of her choice/volition, there were ample opportunities for the victim to have made her exit from the company of the petitioner. Nowhere has she stated that she was threatened on point of weapon or was doled out threats of serious consequences in case she did not succumb to the orders of the petitioner.

There appears to be discernible chinks in the prosecution version, at least at the stage of grant of bail.

Taking all these facts into account, especially that the victim has come back to her parental home and the period of custody of the petitioner which is from 23.08.2019, the petitioner is directed to be released on



bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Birpur, Supaul in connection with Karjain P.S. Case No. 35 of 2019.

(Ashutosh Kumar, J)

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