

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83553 of 2019**

Arising Out of PS. Case No.-347 Year-2019 Thana- MOTIPUR District- Muzaffarpur

Chandan Kumar, aged about 25 years, (Male), son of Mahadev Prasad,
resident of village- Bathna, P.S.-Motipur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Birendra Sahani, son of Suraj Sahani,
3. Pinki Kumari, D/o Birendra Sahani, resident of village- Bathna, P.S.-
Motipur, Dist.- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Pandey, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP
For the Informant	:	Mr. Arun Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 02-06-2020

The matter has been heard *via* video conferencing
due to lockdown imposed on account of the COVID-19
pandemic.

2. Heard Mr. Sunil Kumar Pandey, learned counsel
for the petitioner; Mr. Nirmal Kumar Sinha, learned Additional
Public Prosecutor (hereinafter referred to as the 'APP') for the
State and Mr. Arun Kumar, learned counsel for the informant
and his daughter (opposite parties no. 2 and 3).

3. Earlier by order dated 08.01.2020, the Court had
issued notice to the opposite parties no. 2 and 3 while granting
provisional bail to the petitioner.

4. The petitioner was in custody in connection with



Motipur P.S. Case no.347 of 2019 dated 26.07.2019 instituted under Section 366-A of the Indian Penal Code.

5. The allegation against the petitioner was that he had kidnapped the minor daughter of the informant.

6. Learned counsel for the petitioner submitted that the case against him is frivolous. It was submitted that the parties were in love and the daughter of the informant had willingly gone with him to Rajasthan and lived with him. It was further submitted that the petitioner and his family were ever ready to accept the daughter of the informant in their household by performing marriage of the petitioner with her. Learned counsel submitted that the petitioner has no criminal antecedent. It was further submitted that though the allegation in the First Information Report is that the girl was minor, but the Medical Report has opined that her age was between 18-19 years.

7. Learned APP submitted that as per the First Information Report the girl was minor.

8. Learned counsel for the opposite parties no. 2 and 3 submitted that the girl in her statement under Section 164 of the Code of Criminal Procedure, 1973, has also said against the petitioner and the allegations are correct. However, on a query of the Court with regard to the Medical Report, which is an



acceptable and scientific method to determine the age, which has opined that the girl was major, learned counsel could not give any reply. Further, on a query of the Court as to why the girl did not raise any cry or resist her being taken to Rajasthan, if at all, it was a case of forceful kidnapping, again learned counsel had no answer. On a further query of the Court as to what was the stand of the offer made on behalf of the petitioner and his family that as the petitioner and the daughter of the informant being in love, they were ready to get them married, learned counsel submitted that they belong to different caste, due to social pressure, marriage could not be held and further that the opposite party no. 2 has fixed the marriage of his daughter with someone else belonging to his caste.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the provisional bail granted to the petitioner on 08.01.2020 stands confirmed.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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