

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13536 of 2021**

Arising Out of PS. Case No.-218 Year-2020 Thana- CHAUSA District- Madhepura

MD. DANISH KHAN SON OF MD. ASRAF KHAN @ ASRAF KHAN R/o
village- Laualagan Purbi Ward No. 6, P.S.- Chausa, District- Madhepura

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Nafisuzzoha, Advocate

For the Opposite Party/s : Ms. Renu Kumari, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 03-09-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Ms. Renu Kumari, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Chausa P.S. Case No. 218 of 2020 registered for the offences punishable under Sections 363, 366(A) of the Indian Penal Code and Section 8 of the POCSO Act. He is in custody since 12.10.2020. The petitioner has no criminal antecedent.

As per the prosecution story, the minor daughter of the informant went outside her house to attend the call of nature

at about 01:30 A.M. during night hours, when she did not return within 2-3 hours, the informant started searching her but could not trace her. The informant claims that he made calls in his relationships for enquiry but could not find any trace of his daughter, in the meanwhile he got information that 8 named accused persons have enticed away her daughter with intention to marry with her. The informant also apprehended that after kidnapping of his daughter she might have been killed.

Learned counsel for the petitioner submits that the alleged occurrence took place on 22.09.2020 whereas the FIR has been lodged on 11.10.2020 i.e. after a delay of 20 days without there being any reasonable explanation for the same.

Learned counsel further submits that the petitioner has been falsely implicated on mere suspicion. The victim girl has come back and her statement under Sections 161 Cr.P.C. and 164 Cr.P.C. have been recorded. She has not taken name of this petitioner in her statement either before the police or before the learned Magistrate.

It is further submitted that the medical examination report of the victim girl does not indicate any recent sign of sexual activities and no injury has been reported on her body.

Ms. Renu Kumari, learned APP for the State has

though opposed the prayer for regular bail of the petitioner but at the same time after going through the case diary and the statement of the victim girl under Section 164 Cr.P.C. learned APP has confirmed to this Court that in her 161 Cr.P.C. statement she has taken only three names and the petitioner is not there and further in her 164 Cr.P.C. statement she has not taken name of any of the accused and has not disclosed who were those persons, the medical examination report as submitted on behalf of the petitioner is same.

Considering the facts and circumstances of the case wherein there is not only a huge delay of 20 days in lodging of the FIR, on recovery of the victim girl she has not taken name of this petitioner indulging in the alleged occurrence, this Court directs release of the petitioner on bail above named on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge VI-cum-Special Judge, POCSO Madhepura in connection with Chausa P.S. Case No. 218 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the

petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading ‘Judicial Orders Passed During The Pandemic Period’.