

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33042 of 2021

Arising Out of PS. Case No.-689 Year-2019 Thana- HAJIPUR SADAR District- Vaishali

PRABHAT KUMAR CHAUDHARY @ BABLI CHAUDHARY @
PRABHAT KUMAR SON OF LATE CHICHHU CHAUDHARY @ LATE
RAJ KISHORE CHAUDHARY RESIDENT OF VILLAGE-
HATHSARGANJ, P.S.- TOWN HAJIPUR, DISTRICT-VAISHALI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Maruth Nath Roy

For the Opposite Party/s : Mr.Anant Kumar I

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 14-12-2021 Learned counsel for the petitioner has filed IA application being I.A. No. 01/2021 in the present bail application to contend that the petitioner was a major on the date of occurrence and inadvertently, in the cause title his age was typed as 16 years as such permission is sought to correct the cause title with regard to the age of the petitioner. Permission is accorded.

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

Petitioner seeks bail in connection with Hajipur Sadar P.S. Case no. 689 of 2019 registered for the offence punishable under sections 363, 366A of the Indian Penal Code read with sections 4, 6, 8, 10 of the POCSO Act.



Learned counsel for the petitioner submits that petitioner is in custody since 23.12.2020, is person with clean antecedent and charge sheet has been submitted. Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that his 11 years daughter who is student of class VI had gone to her school on 19.10.2019 at 8.30 a.m., till evening she did not return from school. The informant enquired about her when he came to know that victim had not come to the school. Thereafter it is alleged that the informant was inquiring about victim when he was informed by the co-villager that the victim had been seen going with Gautam Paswan and Prabhat Kumar Chaudhary @ Babli Chaudhary (petitioner) on motorcycle along with 4/5 unknown persons. Thus, it was alleged that his minor daughter was kidnapped. Learned counsel submits that though the informant discloses age of the victim as 11 years but on medical examination doctor has assessed her to be of 17 years. Learned counsel further submits that girl had been recovered and her statement was recorded under section 164 Cr.P.C on 5.11.2019 i.e. 03 days after she was recovered, it is further submitted that from perusal of the statement of the victim under section 164 Cr.P.C, it would manifest that she had



not seen the petitioner rather has stated that she was kept in the house of brother-in-law of the accused Gauttam and a woman used to give her food and further that she overheard name of this petitioner during conversation. Further she was being taken to Delhi but when they reached at railway station, police suspected foul play as her face was covered on which police asked the accused persons as to where they were going on which victim disclosed her ordeal, one accused was arrested and other managed to escape. Learned counsel submits that admittedly in her statement under section 164 Cr.P.C, she has only stated that she overheard name of this petitioner during conversation. Learned counsel further submits that Gautam was arrested at the railway station and this petitioner was not with him. He further submits that Gautam in his statement recorded under section 161 Cr.P.C during investigation disclosed that he married the victim and had kept her in the house of his brother-in-law and they were planning to go to Kolkata when he came to be arrested. Learned counsel submits that from perusal of the statement of Gauttam, it would manifest that he has not remotely suggested that this petitioner was involved in any manner in the occurrence though he confessed that he had married the victim. Learned counsel submits that it was a case



of love affairs, victim had eloped but the present case came to be instituted as the informant was aware with whom she had gone but since this petitioner was friend of accused Gautam as such he came to be implicated in this case.

Learned APP after perusing the case diary submits that the victim is minor aged about 11 years and in her statement under section 164 Cr.P.C, she has stated that she overheard the name of this petitioner in conversation but does not dispute that Gautam in his statement under section 161 Cr.P.C has not remotely suggested about this petitioner.

Considering the facts that petitioner is in jail custody , is person with clean antecedent and charge sheet has been submitted, the petitioner is directed to be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Exclusive Special court, POCSO ADJ VI, Vaishali at Hajipur in Hajipur Sadar P.S. Case no. 689 of 2019.

(Satyavrat Verma, J)

s.hassan/-

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