

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31138 of 2021**

Arising Out of PS. Case No.-176 Year-2020 Thana- BAUNSI District- Banka

Md Sajjad, Son Of Md. Hanif Resident Of Near Aligarh Dharmkata, Anupam
Shahar Road Maheshpur, P.S.- And District- Aligarh (uttar Pradesh) At
Present Residing At Village- Kazi Kairy, P.S.- Bounsi, District- Banka.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Nurul Hoda- Advocate

For the Opposite Party/s : Mr. Md. Shakir Ahmad- A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 09-12-2021 Heard the learned Advocate for the petitioner and

the learned APP for the State.

The petitioner seeks bail in connection with
Bounsi P. S. Case No.176 of 2020, instituted for the
offences under Sections 363, 366(A) of the Indian Penal
Code and Section 8 of the POCSO Act.

The learned counsel for the petitioner submits that
the petitioner is in custody since 21.07.2020, he is a person
with clean antecedent and charge-sheet has been submitted
in this case.

The learned counsel for the petitioner further
submits that the petitioner has been falsely implicated in the



present case and as the date of occurrence is 06.07.2020 and the F.I.R. came to be instituted on 20.07.2020 and in the F.I.R., it is alleged that the daughter of the informant on 06.07.2020 at about 8.00 P.M. went to attend nature's call and when she did not come till 10.00 P.M., the informant started searching her, but was not able to find her. He then alleges that on 19.07.2020, he came to know about whereabouts of his minor daughter and then he went to Bhagalpur and from there he recovered both, the petitioner and his minor daughter and handed over the petitioner to the police.

The learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that the petitioner has been falsely implicated in this case as it does not stand to reason that a minor daughter would have been kidnapped and the parents including the informant would not have reported the matter to the police and it was only when the informant came to know about whereabouts of his daughter on 19.07.2020, then he went to Bhagalpur where he found the both, the petitioner and the victim and handed over the petitioner to



the police.

The learned counsel for the petitioner further submits that there is no injury report on the record nor the statement of the victim under Section 164 of the Cr.P.C. has been recorded.

Learned A.P.P. opposes the bail application and submits that from perusal of the impugned order, it would manifest that the learned Court below has clearly recorded that the minor's statement was recorded under Section 164 of the Cr.P.C. and she has supported the case of the prosecution, on which the learned counsel for the petitioner submits that the said observation of the learned Court below seems to have been recorded inadvertently.

This Court thus by order dated 25.11.2021 had called for a legible copy of the case diary along with the statement of the victim, if any, under Section 164 of the Cr.P.C., till date the case diary has not been received.

Considering the submission of learned counsel for the parties and that petitioner is in custody, charge-sheet has been submitted in the case, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds



in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand)
with two sureties of the like amount each to the satisfaction
of learned Additional Sessions Judge-VI-cum-Special Judge
(POCSO), Banka in connection with Bounsi P. S. Case
No.176 of 2020, provided the learned Court below after
perusing the record is satisfied that there is no statement of
the victim recorded under Section 164 of the Cr.P.C.

The application stands allowed.

(Satyavrat Verma, J)

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