

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33889 of 2021**

Arising Out of PS. Case No.-44 Year-2021 Thana- SIKARPUR District- West Champaran

=====

YOGENDRA PASWAN Son of Late Jagranath Paswan R/o Village-
Maheshpur, P.S.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey

For the Opposite Party/s : Ms.Meena Singh

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 02-12-2021 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner seeks bail in connection Shikarpur P.S. Case
no. 44 of 2021 registered for the offence punishable under
sections 366A, 379, 504/34 of the Indian Penal Code read with
sections 8/12 of the POCSO Act.

Learned counsel for the petitioner submits that
petitioner is in custody since 23.01.2021 and charge sheet has
been submitted. Learned counsel for the petitioner further
submits that from perusal of the allegation as alleged in the FIR,
it would manifest that informant alleges that son of this
petitioner forcibly abducted minor daughter of the informant
aged about 17 years with the help of the petitioner and his
mother for marriage and the victim took along with herself



ornament worth Rs 4 lac. He further submits that from bare perusal of the FIR, it would manifest that occurrence is of 09.01.2021 and FIR has been instituted on 14.01.2021 i.e. after delay of more than five days without any plausible explanation. Learned counsel further draws the attention of the court to Annexure 2 at page 17 of the brief to show date of birth alleged to the victim is 15.3.1998 as such on the date of occurrence she was major and her age as assessed by doctor is also in between 22-23 years. Learned counsel further submits that victim is legally wedded wife of son of this petitioner and this petitioner has been implicated merely because he is father of Ghanshyam Paswan. Learned counsel submits that when FIR came to be instituted, this petitioner was taken into custody and charge sheet came to be filed keeping investigation pending against rest of the accused persons and the learned court below based on charge sheet took cognizance of the offence under the aforesaid sections. Learned counsel submits that after statement of the victim was recorded under section 164 Cr.P.C police submitted final form in favour of all accused persons stating that case was mistake of fact but the learned court below differing with the police report took cognizance of the offences under sections 366A, 379, 504/34 of the Indian Penal Code read with sections



8/12 of the POCSO Act. Learned counsel submits that admittedly, victim is a minor and doctor has also assessed the victim to be a minor and the police after investigation submitted final form considering the case mistake of fact and victim has married with the son of the petitioner and she is legally wedded wife of son of this petitioner.

Learned APP opposes the prayer for bail and submits that court below has taken cognizance of the offence under the aforesaid sections.

Considering the facts that final form was submitted and that prima facie annexure 2 to the bail application shows that the victim is minor and even doctor has assessed to be minor and she is married with the son of this petitioner, 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 Addl. Sessions Judge VII-cum- Special Judge (POCSO), West Champaran, Bettiah in Shikarpur P.S. Case no. 44 of 2021.

(Satyavrat Verma, J)

s.hassan/-

U		T	
---	--	---	--

