

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26883 of 2020

Arising Out of PS. Case No.-33 Year-2019 Thana- KHUTAUNA District- Madhubani

NANDU DAS @ NANDU KUMAR DAS S/O Chandeshwar Das R/o Village
- Bela, P.S. - Khutauna, District - Madhubani.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Mr. Sanjay Kumar Singh, A.P.P.
For the Victim Girl	:	Mr. Dhaneshwar Prasad Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 02-02-2021 Heard learned counsel for the petitioner, Mr.

Dhaneshwar Prasad Gupta, A.O.R. No. 683 who appears on behalf
of victim girl and Mr. Sanjay Kumar Singh, learned A.P.P. for the
State.

The petitioner, in the present case, is seeking pre-arrest
bail in connection with Khutauna P.S. Case No. 33 of 2019
corresponding to G.R. No. 338 of 2019 registered for the offence
under Sections 363, 366A and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that although
the allegation in the First Information Report is that the victim girl
aged about 14 years was alone in the house and when the
informant and other family members came back after attending a
marriage ceremony they found the victim girl missing, the fact is
that the victim girl has now appeared before the learned Judicial



Magistrate, 1st Class, Madhubani and she has made a statement that she is aged about 19 years, had left her house on her own volition and had solemnized marriage with this petitioner.

Learned Counsel submits that the fact is that the victim girl is major and she is happily living with this petitioner as his legally wedded wife and now they have got a child as well, the petitioner deserves privilege of anticipatory bail.

Learned counsel for the victim girl has also supported the petitioner as according to him the victim girl is living peacefully as wife of the petitioner and hence the petitioner may be granted the privilege of anticipatory bail.

Learned A.P.P. for the State has however taken a different stand with reference to the age of the victim girl. Learned A.P.P. has drawn the attention of this Court towards the material enclosed with the copy of the First Information Report. It is a certificate issued by the Principal of Government Primary School, Bela, Khutauna (Madhubani). The document shows that the date of birth of the victim girl has been entered in the school register as 06.04.2005 vide admission register serial no. 199. She had entered in the school on 26.04.2010 and has left the school on 31.03.2015. It is thus submitted that considering the age of the victim girl, the fact that the petitioner has married with her could not be a circumstance which would result in favour of the petitioner by



way of a privilege of anticipatory bail.

Having regard to the facts and circumstances of the case, there being some material on the record showing that the victim girl was aged about 14 years on the alleged date of occurrence and according to that certificate as on today she may hardly be of 16 years of age but in her 164 Cr. P.C. statement which has been produced before this Court she has declared her age as 19 years, this Court deems it just and proper to take a view that instead of granting privilege of anticipatory bail to the petitioner, the petitioner be protected for a period of four weeks from today and during this period the petitioner shall surrender in the court of learned Chief Judicial Magistrate or before the learned Judicial Magistrate before whom the case is pending at Madhubani and pray for regular bail. The victim girl shall also appear before the learned court at Madhubani and it will be open for the petitioner as well as the victim girl to produce all such materials which may be helpful in determining the age of the victim girl.

In case the learned Chief Judicial Magistrate/learned Magistrate, Madhubani finds that the victim girl is apparently coming in the category of a juvenile, she will be referred to the Juvenile Justice Board, Madhubani where her age determination shall take place in accordance with law but without delay.

On appearance before the learned Chief Judicial



Magistrate/Judicial Magistrate, the prayer for regular bail of the petitioner shall be considered and be disposed of on the same day.

Needless to say that in case, it is found that she is still a juvenile and the Board takes a view that she has to be kept in institutional home care, all care shall be taken of the victim girl and the child by providing such helps which are to be provided in accordance with law and the schemes in this regard and such order/orders as may be required in the interest of the victim girl and the child shall be passed by the Juvenile Justice Board, Madhubani.

For a period of four weeks, no coercive action shall be taken against the petitioner.

This application stands disposed of.

(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'.

