

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35802 of 2020

Arising Out of PS. Case No.-402 Year-2019 Thana- CHANPATIA District- West Champaran

KISHAN KUMAR SON OF PANNALAL PRASAD RESIDENT OF
VILLAGE MAULANIA, WARD NO. 9, P.S.- CHANPATIA (SIRISIYA
O.P.), DISTRICT- WEST CHAMPARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma
For the State	:	Mr. Humayoy Ahmad Khan
For the Informant	:	Mr. Bimlesh Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-03-2021 Heard both sides.

The petitioner apprehends his arrest in Chanpatia (Sirisiya O.P.) P.S. case No. 402/2019 registered under Section 363, 366-A of the IPC.

The informant, father of the victim, named the petitioner and others and alleged that all the accused persons kidnapped his minor daughter while she had gone to ease out for the purpose of murder.

The learned counsel for the petitioner submits that informant is not an eye witness of the occurrence. The informant lodged the case when he found her daughter missing from the house. The victim made her statement u/s 164 of the Cr.P.C. on 21.01.2020 and she disclosed that her father wanted to get her



married against her will and that is why she left her house and solemnized marriage with the petitioner. Her father is bent upon to implicate her husband and other family members in different cases. It is further submitted that the doctor has opined the age of victim between 19-20 years, therefore, the petitioner deserves anticipatory bail.

The learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submits that on the basis of School Leaving Certificate the victim is less than 18 years of age on the date of institution of the FIR, that is, 16.12.2019. The date of birth of victim is 26.08.2002 and the victim on the date of occurrence is less than 18 years and, therefore, her consent is immaterial as has been held by a Full Bench of this court in the case of Shikha Kumari vs. the State of Bihar & Ors, reported in 2020 (2) PLJR 15 and, therefore, the petitioner does not deserve anticipatory bail.

It appears that, of course, father of the victim alleged that his minor daughter was kidnapped but from perusal of the statement of victim it appears that the victim herself left her house in protest that her father wanted to get her married with a person against her wish and she solemnized marriage with the petitioner. The victim did not complaint any ill treatment at the



hands of the petitioner. The victim simply stated that she left her house and solemnized marriage with the petitioner, therefore, there is no coercion, confinement or allurement on the part of the petitioner.

Taking into consideration the facts aforesaid and nature of allegation made against the petitioner, the petitioner, above named, in the event of his arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, West Champaran, Bettiah in connection with Chanpatia (Sirisiya O.P.) P.S. case No. 402/2019, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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