

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37934 of 2020

Arising Out of PS. Case No.-427 Year-2019 Thana- SURSAND District- Sitamarhi

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Bimal Sah, aged about 33 years, Male, S/o Mangal Sah, R/o Village-
Ghaghara, P.S.- Parihar, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the State : Mr. Abhay Kumar No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 24-09-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Manoj Kumar, learned counsel for the petitioner and Mr. Abhay Kumar No. 1, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Sursand PS Case No. 427 of 2019 dated 23.11.2019, instituted under Sections 363/366A/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he had kidnapped the wife and minor son of the informant.

5. Learned counsel for the petitioner submitted that in the FIR itself it has been stated that the wife of the informant had gone away on her own volition along with the infant child. Learned counsel submitted that in the statement under Section 164 of the Code of Criminal Procedure, 1973 the lady has stated



that she used to talk to the petitioner and the petitioner had called her but it has also been innocuously stated that the petitioner had locked her up and that she wanted to go back to her husband. Learned counsel submitted that neither there is allegation of the petitioner having abducted or kidnapped her nor is there any whisper of the petitioner doing any wrong act with the lady. Learned counsel submitted that the petitioner has been falsely implicated having no other criminal antecedent. It was further submitted that witnesses have also stated that the lady used to frequently talk with the petitioner.

6. Learned APP, from the case diary, did not controvert the fact that witnesses have stated that the lady used to talk to the petitioner.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the statement in the FIR itself that the lady herself had gone away and she making no allegation with regard to any abduction or wrong act on the part of the petitioner and witnesses also stating in the same terms as also the petitioner not having any other criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender



before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the concerned Judicial Magistrate, Pupri at Sitamarhi in Sursand PS Case No. 427 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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