

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.2153 of 2021**

Arising Out of PS. Case No.-29 Year-2019 Thana- ARER District- Madhubani

VIKASH KUMAR @ VIKAS KUMAR W/O Teju Paswan R/O Village -
Dhakjari, P.S. - Arer, District - Madhubani.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Baidya Nath Thakur, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 02-07-2021 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within four
weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Jitendra Kumar Singh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Arer P.S. Case No. 29 of 2019 registered for the
offences punishable under Sections 363, 366-A, 376-A/34 of the
Indian Penal Code and Section 4 of the POCSO Act. He is said
to be in custody in connection with the present case since
17.03.2020.

As per the prosecution story the petitioner had eloped
with the daughter of the informant. It is alleged that when the



informant went to the place of petitioner, his parents told the informant that there is nobody in their house and they did not agree to produce the victim girl.

Learned counsel submits that the victim girl appeared after about one year and she claimed her age as 19 years, though the court assessed her age about 17 years. In her statement she categorically stated that she was in love with this petitioner, her parents wanted to marry her with some other boy whereupon she put pressure upon the petitioner to marry her and both of them solemnized marriage at Durga Asthan and went to Delhi. She was carrying a pregnancy of four months. The victim girl made statement that she was not kidnapped by anyone.

Learned counsel further submits that from the materials on the record it is apparent that the petitioner who is though a major aged about 23 years and the victim girl aged between 17-19 years of age as the case may be, were in love with each other and it is not one of those cases in which the provisions of POCSO Act may be attracted.

Learned counsel further submits that in any case the petitioner has remained in jail for over one year, as on today the victim girl is major even if the age of the victim girl as assessed by the Court on 18.03.2020 is taken into consideration. The



investigation of the case is complete but the trial is not likely to be concluded in near future.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner as according to him the victim girl was only 17 years old and as such the petitioner does not deserve privilege of bail.

Having regard to the facts and circumstances of the case, the peculiar nature in which the victim girl is claiming her age as 19 years whereas the Court is assessing her 17 years, there is however no birth certificate or medical certificate showing the age of the victim girl, the circumstances showing that the victim girl is herself explaining her being in love with this petitioner and then the other facts as to pressurizing the petitioner to marry her, considering these aspects of the matter and that the petitioner has already remained in custody for over a year, but the trial is not likely to be concluded in near future, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-III, Benipatti, Madhubani in connection with Arer P.S. Case No. 29 of 2019 subject to the condition as laid down under Section 437



(3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(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'.

