

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1975 of 2021**

Arising Out of PS. Case No.-718 Year-2020 Thana- KANKARBAG District- Patna

Rahul Kumar @ Rahul Son Of Late Lapatu Kewat R/O Mohalla-Chinta
Sadan, Prithvipur, Chiraiyatar, P.S-Kankarbagh, District-Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sudhanshu Shekhar

For the Opposite Party/s : Mr.Pramod Kumar Pandey

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

7 23-08-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Spl. (POCSO) Case No. 176 of 2020, arising out of Kankarbagh P.S. Case No. 718 of 2020, registered for the offence under Sections 363, 366(A) of the Indian Penal Code and Section 8 of the POCSO Act.

As per the prosecution case, this petitioner is alleged to have kidnapped the minor daughter of the informant with intent to solemnise marriage with her.

It is submitted on behalf of petitioner that in fact, there was love affairs between petitioner and victim girl and the victim girl went with petitioner with her own consent to *Mugalsarai*. It is further submitted that petitioner has not put pressure on the victim to run away from the house. Even during



course of investigation, the victim girl, in her statement recorded under Section 164 Cr.P.C., has not alleged any misbehave or wrong act against this petitioner. From perusal of medical report of victim girl, it is apparent that the doctor has not found any mark of violence. No offence under Section 8 of the POCSO Act is made out against the petitioner and therefore, the police submitted chargesheet under Sections 363, 366(A) of the Indian Penal Code. Petitioner is in custody since 26.09.2020.

However, learned A.P.P. for the State opposed the bail petition and submitted that in statement of the victim girl recorded under Section 164 Cr.P.C., the age of the victim girl has been assessed by the court below, as 13 years. The victim is minor and therefore, her consent is immaterial and there is specific allegation against this petitioner.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner and same is, accordingly, rejected.

(Prabhat Kumar Singh, J.)

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