

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7853 of 2021

Arising Out of PS Case No.-37 Year-2020 Thana- LAHERIMUHALLA District- Nalanda

- =====
1. Rajesh Kumar @ Rajesh Mahto, aged about 48 years, Gender-Male, Son of Ramji Prasad.
 2. Sanju Devi, aged about 42 years, Gender-Female, Wife of Rajesh Kumar @ Rajesh Mahto.
 3. Puja Kumari, aged about 22 years, Gender- Female, Daughter of Rajesh Kumar @ Rajesh Mahto.
- All are residents of Village - Gaurav Nagar, PS - Parbalpur, District - Nalanda.
4. Umashankar Prasad, aged about 45 years, Gender- Male, Son of Late Kishori Prasad, Resident of Village - Diyama, PS - Karai, District – Nalanda

.... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Udbhav, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Udbhav, learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Laheri PS Case No. 37 of 2020 dated 28.01.2020, instituted



under Section 366 of the Indian Penal Code.

4. The allegation against the petitioners is that the son of petitioners no. 1 and 2 namely Vishal Kumar @ Bhoma had abducted the daughter of the informant.

5. Learned counsel for the petitioners submitted that the petitioner no. 1 is the father, petitioner no. 2 is the mother, petitioner no. 3 the sister of said Vishal Kumar @ Bhoma and petitioner no. 4 is the husband of maternal aunt of Vishal Kumar @ Bhoma. It was submitted that they have no role in the matter and in the statement of the girl recorded under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') she has stated that the son of petitioners no. 1 and 2, that is, Vishal Kumar @ Bhoma, had taken her to Hilsa on the pretext that he would marry her and stayed there for 3-4 days and thereafter the petitioners had come and had assaulted her and had taken back the son whereas the petitioner no. 1, upon great persuasion, had taken the girl to her father's place. Learned counsel submitted that the fact is that the girl is aged about 21 years and Vishal Kumar @ Bhoma is aged 17 years, which clearly indicates that it was the girl who, being major had a greater influence on the son of petitioners no. 1 and 2 and enticement is on the part of the girl and not their son Vishal



Kumar @ Bhoma. It was submitted that Vishal Kumar @ Bhoma has been released by the Juvenile Justice Board. Learned counsel submitted that the petitioners have no role in the entire episode and it was never a case of kidnapping as the daughter of the informant had willingly gone with Vishal Kumar @ Bhoma. Learned counsel submitted that he had taken time on 01.06.2021 to file supplementary affidavit which has been done. Though learned counsel has submitted on the basis of the averments made in the supplementary affidavit, but the Court deems it appropriate to reproduce the same:

“x x x x

2. That it is being humbly submitted through the present supplementary affidavit that Vishal Kumar who is the FIR named accused of the present case is presently under the legal age of marriage which is 21 years and the petitioners have no problem with the relationship of Vishal Kumar with the daughter of the informant, namely Shilpi Kumari.

3 That the petitioners are ready to accept the marriage, in case Vishal Kumar and Shilpi Kumari wish to marry after Vishal Kumar attains the legal age of marriage of 21 years, and the petitioners further undertake to neither hamper nor impede nor try to influence the relationship between Vishal Kumar and Shilpi Kumari in any way either presently or in the future; and the wish to pursue and continue their



relationship will be theirs solely.

4. That the petitioners will neither in any way forbid Vishal Kumar from talking to Shilpi Kumari nor will in any way prevent Shilpi Kumari from talking to Vishal Kumar.

x x x x”

6. Summing up his arguments, learned counsel for the petitioners submitted that the petitioners have no criminal antecedent and they stand by their words that if at the appropriate time when the parties are legally entitled to marry, any decision taken by them would be fully acceptable to the petitioners and there shall not cause any impediment in their relationship to continue during the period also.

7. Learned APP submitted that there is allegation of assault against the petitioners.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and specifically taking note of what has been stated in the supplementary affidavit, as quoted hereinabove, as also that it would be in the overall interest of justice that against the petitioners, who are close relatives of Vishal Kumar @ Bhoma, no drastic action is taken, as it may shut down the hope of any reconciliation between the families and might even have adverse



effect on the relationship of Vishal Kumar @ Bhoma and the daughter of the informant, if at all they are truly in love, taking an overall view in the matter and for securing the ends of justice and in the larger public interest, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nalanda in Laheri PS Case No. 37 of 2020, subject to the conditions laid down in Section 438(2) of the Code and further (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners, and (iii) that the petitioners shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation or what has been stated in the supplementary affidavit filed on their behalf, would lead to cancellation of their bail bonds.

9. It shall also be open for the informant/prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall



take immediate action on the same after giving opportunity of hearing to the petitioners.

10. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

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