

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4987 of 2022

Arising Out of PS. Case No.-319 Year-2021 Thana- RAMGARHWA District- East
Champaran

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Dipak Kumar Sharma, Son Of Paras Sharma @ Parasnath Sharma, R/O
Village- Ramgarhwa Bazar, P.S.- Ramgarhwa, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 5749 of 2022

Arising Out of PS. Case No.-319 Year-2021 Thana- RAMGARHWA District- East
Champaran

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Rajababu Sharma, Son Of Paras Sharma @ Parasnath Sharma, R/O Village-
Ramgarhwa Bazar, P.S.- Ramgarhwa, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 4987 of 2022)

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

For the Opposite Party/s : Mr.Nawal Kishore Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 5749 of 2022)

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

For the Opposite Party/s : Mr.Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 06-12-2022 Since both the applications arise out of Ramgarhwa

P.S. Case No. 319 of 2021, as such, they have been taken up

together and are being disposed of by this common order.

Heard learned counsel for the petitioners and learned

APP for the State.

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Ramgarhwa P.S. Case No. 319 of 2021 registered for the alleged offences under Sections 363, 366A and 34 of the Indian Penal Code and Section 8 of the POCSO Act.

As per prosecution case, informant lodged a written report with police that his minor daughter was kidnapped by seven persons from the doors of his house. He was informed that petitioners along with other co-accused persons called out his daughter and they forcibly took her away. The informant showed his apprehension that his daughter was kidnapped by the miscreants to commit some wrongful act or for marriage with her or for selling her in Nepal.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case merely on suspicion. From the FIR, the prosecution story does not appear to be believable. However, the victim girl has been recovered and was produced before the police by her father. Her statement was recorded under Section 164 Cr.P.C. and she named Dipak Kumar Sharma and six other who took her away and she was made unconscious. On regaining consciousness she found herself in Delhi and thereafter, she



approached the police. Learned counsel further submits that there is no allegation or statement about any sexual assault on her by the petitioners or any other persons. The medical examination of the victim girl was done and her age was assessed to be 17.5 to 18.5 years. Learned counsel further submits that it could be presumed that the victim girl was major on the relevant date. Learned counsel further submits that there might be love affair between the petitioner Dipak Kumar Sharma and the daughter of the informant and she willingly went away with him. The petitioners are in custody since 17.11.2021 as mentioned in impugned order. The petitioners are having clean antecedent.

Learned APP opposes the prayer for bail submitting that the victim girl was forcibly took away by the petitioners and six other persons.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that there appears no allegation of any sexual misconduct and also considering the clean antecedent of the petitioners along with their period of custody and submission of charge-sheet, the petitioners above named are directed to be released on



bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District Judge-VII-cum-Special Judge POSCO Act, East Champaran, Motihari, in connection with Ramgarhwa P.S. Case No. 319 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will a close relative of the petitioners.

(ii) The petitioners will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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