

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11479 of 2022**

Arising Out of PS. Case No.-49 Year-2021 Thana- BUDHUCHAK District- Bhagalpur

Yashwant Yadav @ Jaswant Yadav Son of Jaldhar Prasad Yadav @ Jaldhar
Yadav Resident of Village - Ekdara, P.S. Budhuchak, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 29-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Budhuchak P.S. Case No. 49 of 2021 registered for the offence
under Sections 366, 366(A), 120(B), 34, 307, 376, 504, 506 of
the I.P.C. and Section 4 of POCSO Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 23.01.2022.

The allegation against the petitioner is to kidnap the
minor daughter of the informant along with other co-accused
persons, aged about 15 years for the purpose of illicit
intercourse with further allegations to commit rape/sexual



assault, upon her.

Learned counsel appearing on behalf of the petitioner submitted that initially the victim failed to name this petitioner during the course of investigation, while recording her statement under Section 161 of Cr.P.C. but subsequently, victim named this petitioner, while recording her statement under Section 164 of the Cr.P.C., as one of the co-accused who helped in kidnapping, where the thrust of allegation is available against co-accused persons, namely, Chhotu and Raja @ Raju. It is further submitted that allegation of sexual assault is not available against this petitioner, rather same is against co-accused Chhotu. It is also submitted that victim has already been examined by learned Trial Court, where she also did not name this petitioner and specifically disclosed before learned Trial Court that she knows this petitioner for the reason, as she used to go for tuition at the house of petitioner. While concluding the argument, it has been submitted that investigation of this case is complete, where charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer



of bail submitted that petitioner actively participated in occurrence of the kidnapping of the minor daughter of informant. It is also submitted by learned counsel appearing on behalf of the informant that an attempt for murder was also made during the course of kidnapping, where victim was thrown from running train, where one leg of the victim was amputated by doctor due to injury received out of occurrence.

Considering the facts and circumstances as mentioned above, as allegations of kidnapping appearing contradictory, where allegation of rape/sexual assault is not available against this petitioner coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Budhuchak P.S. Case No. 49 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (POCSO)-cum-7th Additional District and Sessions Judge, Bhagalpur/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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