

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14956 of 2022

Arising Out of PS. Case No.-605 Year-2021 Thana- BAHADURPUR District- Darbhanga

Shyam Mukhiya @ Rambabu Mukhiya, Male, aged about 24 years, Son of Naresh Mukhiya, Resident of Village- Gaibal, P.S.- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Advocate

For the Opposite Party/s : Ms. Asha Devi, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 25-08-2022 Heard Mr. Girish Chandra Jha, learned counsel appearing on behalf of the petitioner and Ms. Asha Devi, learned APP for the State.

Petitioner, who is in custody since 19.12.2021, seeks regular bail in connection with Bahadurpur (Fekla OP) P.S. Case No. 605 of 2021 registered for offences punishable under Sections 363, 366 (A), 506 and 34 of the Indian Penal Code.

Prosecution story in brief is that informant, who is the father of the victim, aged about 16 years has alleged that his daughter was found missing and on search, *Mukhiya* of the village had informed him that your daughter was seen going along with your *Bhagina* and on strong suspicion, the informant has lodged F.I.R. against the petitioner.



Learned counsel appearing on behalf of the petitioner submits that the petitioner has been implicated in a false case. Petitioner and the informant are very close relative and they are family members. The victim is maternal sister of the petitioner and the victim without informing the informant or her parents had gone to Calcutta on her own free will. The victim remained along with the petitioner for ten days in Calcutta and after getting knowledge that a criminal case has been lodged against the petitioner they returned back. He further submits that statement of the victim was recorded under Section 164 Cr.P.C. in which she has mentioned her age to be 16 years and the victim has also denied to get herself medically checked-up. He further submits that victim has denied any allegation of sexual assault to have been committed by the petitioner on her or petitioner has assaulted her in any manner. She has stated that she on her own will had accompanied the petitioner and returned back after ten days and during the said period, they were having no grudge against each other. He further submits that petitioner has clean antecedent and he is in custody since 19.12.2021.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. She submits that the



statement of the victim was recorded under Section 164 Cr.P.C in which she has not made any allegation of sexual assault or any assault to have been committed by the petitioner.

Having heard the rival submissions of the parties and the allegation made in the F.I.R. Prima facie allegation against the petitioner is not sustainable as the victim girl has denied that she was sexually assaulted or kidnapped by the petitioner rather she has stated that she on her own will had accompanied the petitioner, who is her cousin brother (*Fufera Brother*) and they stayed together for ten days. Prima facie I am of the opinion that the petitioner has made out a case to be released on bail.

The Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned J.M. Ist Class, Darbhanga in connection with Bahadurpur (Fekla OP) P.S. Case No. 605 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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