

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14070 of 2022

Arising Out of PS. Case No.-41 Year-2021 Thana- BAIRIYA District- West Champaran

Ajay Kumar @ Ajay Kumar Chaudhary, S/o Bhagrasan Chaudhary, R/o
Village - Bagahi Ratanpur, P.S. - Bairiya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 12-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Bimlesh Kumar Pandey, learned counsel for the petitioner and Mr. M. K. Nirala, learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bairiya P.S. Case No. 41 of 2021 registered for the offences punishable under Sections 363, 366(A)/34 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act (POCSO Act).

The prosecution case is based on the written report of the informant, who alleged that on 17.02.2021 her daughter



namely, Gudiya Kumari, had gone to attend the call of nature, then the accused persons named in the F.I.R. including this petitioner had kidnapped her by administering intoxicant material.

It is submitted by the learned counsel appearing on behalf of the petitioner that with regard to the alleged occurrence, which took place on 17.02.2021, the present F.I.R. has been instituted on 01.03.2021 after a delay of more than 12 days and no plausible explanation has been given. It is further submitted that the so-called victim returned and her statement has been recorded under Section 164 of the Cr.P.C. wherein she has categorically stated that she had gone along with the petitioner on her own sweet will and she has also stated that she voluntarily solemnized marriage with the petitioner and living happily with him. It is also submitted that the girl in her statement has claimed herself to be aged about 19 years, the copy of which has been brought on record as Annexure-2 to this application. It is lastly submitted that the petitioner is in custody since 29.08.2021 and moreover the investigation of the crime is already completed and charge-sheet has been submitted and he is ready to give undertaking that he will cooperate in the trial.



On the other hand, learned APP for the State opposes the bail application and submits that the age of the victim girl has been shown to be 14 years in the F.I.R. and there is specific allegation that this petitioner had taken away the victim by kidnapping her.

Having considered the submissions made on behalf of the parties and taking into consideration the statement of the victim recorded under Section 164 of the Cr.P.C., apart from the fact that the petitioner is in custody since 29.08.2021 and moreover the investigation of the crime is already completed and charge-sheet has been submitted and as such keeping the petitioner behind the bar would serve no further purpose, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VII-cum-Special Judge, POCSO Act, Bettiah, West Champaran in connection with Bairiya P.S. Case No. 41 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.



(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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