

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15453 of 2022

Arising Out of PS. Case No.-225 Year-2021 Thana- SAHARSA SADAR District- Saharsa

Subhash Kumar @ Raja Kumar, Son of Bajrangi Sah Resident of Village -
Nariyar, Ward No. 3, P.S. and District - Saharsa, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 29-08-2022 Heard Mr. Sanjeev Kumar, learned counsel appearing
on behalf of the petitioner and Mr. Uma Shankar Prasad Singh,
learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with
Saharsa Sadar P.S. Case No. 225 of 2021, for the offence
punishable under Sections 363, 366 and 366(A) of the Indian
Penal Code and Section 8 of POCSO Act.

The prosecution case, in brief, is that a written
information was lodged by the mother of the victim that her two
daughters aged about 17 years and 15 years were missing.

Learned counsel appearing on behalf of the petitioner
submits that daughters of the informant had willfully gone with
one co-accused Mannu Kumar. The victim was in love relations



with Mannu Kumar. The victim girl and petitioner have now entered into matrimonial relationship and said Nisha Kumari aged about 17 years recorded in her statement under Section 164 Cr.P.C. before the concerned Magistrate has stated that she is living happily with Mannu Kumar and the present petitioner had not played any role in the said elopement. The statement of other daughter of the informant Komal Kumari was also recorded under Section 164 Cr.P.C in which she has stated that the petitioner had left her in Orphanage home from there she has come back to her home on her own. She has not made any allegation of either physical or sexual assault committed by the petitioner. It is further submitted that petitioner is in custody since 09.01.2022 and co-accused Mannu Kumar has been granted bail by the learned court below and on these grounds the petitioner seeks to be released on bail.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner.

Taking into consideration the nature of allegation made against the petitioner and from perusal of the statement of victim Nisha Kumari and her sister Komal Kumari, daughters of the informant, it appears that Komal Kumari had accompanied her elder sister Nisha Kumar along with co-accused Munna



Kumar. There is no allegation against the petitioner that he had also participated in the elopement of the Nisha Kumari. From the statement of the victim Komal Kumari recorded under Section 164 Cr.P.C., it appears that it is the petitioner who had handed over her to Orphanage Home and on information her parents got back her from Delhi to Saharsa. Both the victims have denied allegation of physical or sexual assault have committed by the petitioner. Prima facie, the petitioner has made out a case to be released on bail.

The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1-cum-Special Judge, POCSO Act, Saharsa in connection with Saharsa Sadar P.S. Case No. 225 of 2021, subject to the following conditions:-

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

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) 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.

(4) 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 bonds.

(Purnendu Singh, J)

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