

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21844 of 2022

Arising Out of PS. Case No.-107 Year-2021 Thana- AUANGARI District- Nalanda

SHANKAR KUMAR@SHIV SHANKAR PRASAD S/O BINDA PRASAD
R/O VILLAGE- DAWABIGHA, P.S.- EKANGARSARAI, DISTRICT-
NALANDA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar
For the State	:	Mr.Raj Ballabh Singh
For the Informant		Mr. Anil Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 10-08-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the offence punishable under Section 366/34 of the Indian Penal Code.

Allegedly, informant's sister aged 24 years was abducted by this petitioner with the help of other co-accused persons.

The main submissions advanced by Sri Rajeev Kumar, the learned counsel appearing for the petitioner are that the allegation made in the FIR is totally false, in fact, informant's sister who is major girl had love affair with one Pintu Kumar and owing to that she eloped with him and after institution of the present case, said victim has been recovered and she has recorded her statement under



section 164 Cr.P.C and the allegations made by her in the said statement are completely unbelievable as firstly, victim denied for her medical examination, secondly, she was found alone by the concerned police officials after the alleged occurrence and thirdly, any of the photographs as alleged by the said victim has not been produced by her or found by the Investigating officer during the course of investigation while as per victim girl she was blackmailed by the petitioner and co-accused by showing said photographs. Further submission is that investigation has been completed in respect of the petitioner, he has clean antecedent and has been languishing in jail since 16.11.2021 and one co-accused Pintu Kumar carrying almost similar nature of allegation has been granted bail by this court vide order passed in Cr. Misc. no. 9124 of 2022.

Learned APP Mr. Raj Ballabh Singh appearing for the State and learned counsel Sri Anil Kumar Singh for the informant have vehemently opposed the prayer for bail and submitted that the police have charge sheeted this petitioner under section 376 as well as 366 of the Indian Penal Code and the victim has supported the allegation regarding alleged offences in her statement recorded under section 164 Cr.P.C.

I have heard both sides, perused the FIR and the case diary. In the FIR, the informant who is said to be brother of the victim has simply raised suspicion against the petitioner being involved in the abduction of his sister and during course of



investigation, most of the material witnesses upon which the prosecution has placed reliance whose statements are mentioned as paras 11, 12, 13 and 14 of the case diary, have also raised suspicion only against the petitioner being involved in the alleged abduction of the victim and accordingly, informant and his witnesses appear to be not eye-witnesses of the alleged occurrence. During course of investigation, so-called victim was found near a cinema hall from where she was recovered and at that time presence of the petitioner or any other person was not found and in this regard para 22 of the case diary is relevant. Though charge sheet has been submitted under section 376 IPC against the petitioner as well as co-accused but para 77 of the case diary shows that the said victim denied for her medical examination and accordingly, there is no medical expert's opinion with regard to the allegation of sexual intercourse allegedly committed by the petitioner with the victim. During course of investigation, one witness stated that co-accused Pintu Kumar and the said victim lived at her house as brother and sister and later-on some independent witnesses stated that there was physical relation between the informant's sister and accused persons of this case. Statements of these witnesses are mentioned in para 73,76 and 84 of the case diary.

Investigation has been completed and admittedly, victim who is major girl has been recovered and the petitioner has clean antecedent as mentioned in his petition and one co-accused has been



granted bail by this court.

Considering these discussed facts as well as submissions made above, in the opinion of this Court, petitioner deserves to a lenient approach of this court. Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri S. Paswan, Judicial Magistrate, Ist Class, Hilsa, Nalanda/ concerned court in Aungari P.S Case No. 107 of 2021.

(Shailendra Singh, J)

s.hassan/-

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