

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20592 of 2022

Arising Out of PS. Case No.-116 Year-2020 Thana- UJIYARPUR District- Samastipur

ATMHANSH KUMAR @ AATMHANSH KUMAR Son of Ramchandra
Singh Resident of Village - Chand Chour Shankar Chouk, P.S.- Ujiyarpur,
District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Singh, Adv.
For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

2 20-04-2022 Heard learned counsel for the parties.

The petitioner has renewed his prayer for bail in a case registered under sections 363, 366, 366A and 34 of the Indian Penal Code.

As per the prosecution case, the allegation in the F.I.R. is that the six named accused persons including the petitioner herein took away the minor daughter of the informant with an intention of marriage.

It is submitted by learned counsel for the petitioner that the earlier application for bail of the petitioner was rejected vide order dated 12.4.2021 passed in Cr. Misc. no.41024 of 2020 in view of the victim having supported the allegation against the petitioner and others in her statement under section 164 Cr.P.C. It is submitted that the trial having commenced in the learned trial court, the father and mother of the victim as



also the victim herself were examined as Prosecution Witness nos.1, 2 and 3 and copies of their depositions have been brought on record as Annexure-3 series to the petition. Referring to the depositions of P.W. nos. 1 and 2 ie the parents of the victim, it is submitted that not having supported the prosecution case, they were declared hostile. With respect to the deposition of P.W.3, the victim herself, it is submitted that she has also not supported the prosecution case in so far as she has categorically stated therein that she had gone to her Nani's (Maternal Grandmother's) place and no one has misbehaved with her. Learned counsel for the petitioner submits that she has not even declared hostile by the prosecution, there is no chance of the trial ending in conviction of the petitioner who is in custody since 4.5.2020 and undertakes to cooperate in the trial. It is further submitted that co-accused Kundan Kumar Rai has been enlarged on bail vide order dated 30.3.2022 passed in Cr. Misc. no.15405 of 2022.

Heard learned A.P.P. for the State.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the contents of the depositions of the three prosecution witnesses, the petitioner being in custody for about 2 years and grant of bail to the above



named co-accused, the Court directs the petitioner to be enlarged on bail in connection with Ujiyarpur P.S. Case no.116 of 2020 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge VI-cum-Special Court (POCSO) Act, District Samastipur on the following conditions:

(i) one of the bailors of the petitioner shall be the father of the petitioner.

(ii) the petitioner shall remain physically present in Court on each date of the trial and shall cooperate in the trial.

In case of the petitioner's absence on any date for reasons not the satisfaction of the learned trial court, the learned trial court may cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

It is further clarified that none of the observations made in the instant order shall be used by either of the parties in course of trial and the same have been made only for the purpose of deciding the petitioner's application for bail.

(Partha Sarthy, J)

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