

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25261 of 2022**

Arising Out of PS. Case No.-39 Year-2021 Thana- MAHILA P.S BAGHA District- West
Champaran

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KRISHN MOHAN MUSHAR @ KISHMOHAN MUSHAR, son of Cheedi
Mushar, resident of village Bodsar, P.S. Laukariya District West Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kumar Singh, Advocate
For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 16-09-2022 Heard learned counsel for the petitioner and learned

APP for the State through video conferencing in view of the

COVID 19.

Let the defect(s), if any, as pointed out by the office

be removed within four weeks.

The petitioner is an accused in connection with

Bagaha Mahila P.S. Case No. 39 of 2021 under Sections 341,

323, 363, 366(A), 120(B), 447, 448 and 506/34 of the Indian

Penal Code.

As per the FIR, the informant has alleged kidnapping

of his minor daughter and it has further been alleged that upon

protest, the accused persons assaulted them and further

threatened that their daughter will be killed if the informant and



his family members wanted her back. Accordingly, the FIR was registered and the accused persons including the petitioner herein have come into judicial custody.

In this case, on 08.08.2022, this Court had called for the case diary also the statement made by the victim girl under Section 164 of the Cr.P.C., the same has been received.

Learned counsel for the petitioner submits that section 164 of the Cr.P.C. clearly shows that the victim girl had gone with Krishna Mohan Mushar @ Kismohan Mushar (the petitioner herein) on her own to Himachal Pradesh. He further submits that there is no sign of sexual assault on her and he is in custody since 20.01.2021 and as such he deserves bail.

Mr. Jitendra Kumar Singh, learned APP for the State, on the other hand, submits that the victim girl is minor. However, he agrees on the point that the girl has not alleged anything against the petitioner and further she has stated that she had gone on her own.

Taking into account the aforesaid fact that the victim girl in her statement recorded under Section 164 of the Cr.P.C. has stated that she had gone on her own, coupled with the fact that sign of recent sexual assault was not found, charge sheet stands submitted and he is in custody since 20.01.2021, this



Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Special Judge ADJ -VIIth Special Judge, POCSO, Bettiah, West Champaran in connection with Bagaha Mahila P.S. Case No. 39 of 2021, subject to the following conditions:—

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty



to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

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