

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24859 of 2022

Arising Out of PS. Case No.-476 Year-2021 Thana- KHARHAGPUR District- Munger

Ajay Kumar S/O Raju Bhagat, Resident of- Jalandhar, 251 A Ekta Nagar,
Phase- 1, Rama Mandi, Jalandhar- 11, Punjab- 144005, Permanent residing
at- Bholka Bhatohpur, P.S.- Barhal, P.O.- Malahpur, District- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suman Kumar Jha, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-12-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect (s), if any, as pointed out by the office,
be removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Kharagpur (Shampur) P.S. Case No. 476 of 2021
registered for the alleged offences under Sections 366(A) and 34
of the Indian Penal Code.

As per prosecution case, the informant gave a written
report to police about missing of his minor daughter aged about 14
years studying in Class-8. After inquiry, the informant came to
know that the petitioner and other co-accused persons enticed
away his daughter. Earlier also they took away the daughter of the
informant but she was returned after much pressure put to them.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The statement of the victim girl was recorded before the learned Judicial Magistrate under Section 164 Cr.P.C. and in her statement, the victim girl stated that her parents used to beat her and on 18.12.2021 she was beaten by her parents. She left her house and went to Jalandhar by train. She solemnized marriage with petitioner on 21.12.2021. Learned counsel further submits that the date of birth of the victim girl is 01.10.2003 as per her Aadhar card and she was above 18 years of age on the date of occurrence i.e. on 20.12.2021. Learned Judicial Magistrate also assessed her age to be 18 years. The Medical Board examined the victim girl and it also assessed her age to be between 17 to 18 years. Learned counsel further submits that victim girl has moved before the High Court of Punjab & Haryana and they were granted protection in case any threat to live and liberty was perceived. Learned counsel further submits that the vindictiveness of the informant could be seen from the second F.I.R which was lodged against the petitioner and his family members when the petitioner was in custody in Bariyarpur P.S. Case No. 10 of 2022. Learned counsel further submits that since the petitioner as well as his parents are in custody, the victim girl has been allowed to go to the uncle and aunt of the petitioner by the order of learned A.C.J.M. -2,

Munger. Charge sheet has been submitted in this case and the petitioner is in custody since 25.01.2022

Learned A.P.P. for the State as well as learned counsel appearing on behalf of the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel appearing on behalf of the informant submits that the victim girl was a minor and her date of birth is 07.06.2009 and the certificate have been issued to this effect by the Principal of Middle School, Lohchi. Learned counsel further submits that the consent of the minor is immaterial and even if she says she went on her own and solemnized marriage with the petitioner, it could have no effects on the merit of this case. Learned counsel further submits that the petitioner has been indulging in wrong doing again and again and the informant was compelled to lodge Bariyarpur P.S. Case No. 10 of 2022 against the petitioner and others.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that the petitioner appears to be a girl of sufficient maturity and further considering the fact about volition of the petitioner which is further reflected from her statement recorded under Section 164 Cr.P.C, and no allegation of sexual assault in the said statement and also considering the period of custody of the petitioner along with submission of charge sheet against him, the petitioner above

named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Munger in connection with Kharagpur (Shampur) P.S. Case No. 476 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

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(Arun Kumar Jha, J)