

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25464 of 2022

Arising Out of PS. Case No.-587 Year-2021 Thana- TURKAULIYA District- East
Champaran

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Arif Hussain Son of Ibrahim Miya Resident of village - Braham Tola, P.S.-
Turkauliya, District - East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Prateek Tandon, Advocate

For the Opposite Party/s : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 11-08-2022 Heard learned counsel for the petitioner and
learned APP for the State.

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

The petitioner is in custody in connection with
Turkauliya P.S. Case No. 587 of 2021 under sections 363,
366A/34 of the Indian Penal Code and Section 8 of POCSO Act.

As per the FIR, the informant gave a written report
that on 13.7.2021 that her daughter had gone to purchase
grocery but was kidnapped by the named accused persons in a
Bolero car. She has further alleged that when she went to the
accused home and protested before the father of the petitioner,



she was abused and thrown out of their house. Accordingly, the FIR was lodged.

Learned counsel for the petitioner submits that the bare perusal of the FIR would show that the same has been lodged on 25.7.2021 for the alleged incident of 13.7.2021. Further the alibi taken in the FIR that she was waiting for her husband to return cannot be taken into account in view of the fact that it was kidnapping of her daughter and needed immediate action. He further submits that a bare perusal of the order passed by the learned Sessions Judge-VI cum Special Judge POCSO, Motihari, East Champaran would show that the victim girl upon recovery made a statement under Section 164 of the Cr.P.C. in which she has stated that she voluntarily eloped with the present petitioner having known to him since last 5 to 6 years and further she has given her age to be 17 years and as such she was on the verge of being declared major. He lastly submits that taking into account all the aforesaid facts that the victim girl was 17 in 2021 and has since solemnized marriage with the petitioner as also the fact that he is in custody since 6.1.2022 (as stated in para-9 of the bail application) he deserves bail.

The learned APP has submitted that although it is a



case of kidnapping he do concedes that a perusal of the order-sheet of the learned Sessions Judge shows that the victim girl has made a statement about having solemnized marriage with the petitioner herein with the further statement that she eloped on her own and she is of 17 years old.

Taking into account all the aforesaid facts coupled with the fact that charge-sheet stands submitted and the petitioner is in custody since 6.1.2022 and has to face trial, this Court is inclined to grant him the privilege of bail but conditions in view of the fact that he has criminal antecedent.

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 VIth Additional Sessions Judge cum Special Judge, Posco Act, East Champaran at Motihari, in Turkauliya P.S. Case No. 587 /2021 subject to the following conditions:

(i) one of the bailors should be the family members 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) 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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