

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25604 of 2022

Arising Out of PS. Case No.-42 Year-2021 Thana- MAHILA P.S BAGHA District- West
Champaran

=====

Mukesh Dhangad @ Mukesh Kumar Munda, Son Of Harinarayan Dhangad,
R/O Village- Bhedihari Comfort Dhangadahiya, Ward No.15, P.S.-
Balmikinagar, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, 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 Bagaha Mahila P.S. Case No. 42 of 2021

registered for the alleged offences under Sections 341, 323,

376, 506, 34, 420 and 376 of the Indian Penal Code and under

Section 4 of the POCSO Act.

As per prosecution case, the petitioner established

physical relationship with the informant after calling her to his

house. He gave her allurements of marriage and left her at his

house. Thereafter, the parents of the petitioner drove the informant out of their house and they took her to her parents and also threatened her.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The informant being a major and mature girl was in love with the petitioner and she wanted to marry him. From the F.I.R. it is clear that it was a consensual act on the part of the informant and no force was used by the petitioner and no resistant was shown by the informant. Learned counsel further submits that F.I.R. also reveals that informant wanted to stay at the house of the petitioner. Learned counsel further submits that in the aforesaid facts and circumstances, no offence under Section 376 of the India Penal Code is made out and there will be no case of cheating under Section 420 of the Indian Penal Code. Since, the informant claims herself to be 18 years of age, there would be no application of POCSO Act. Charge sheet has been submitted in this case and the petitioner is in custody since 25.08.2021. The petitioner has got clean antecedent.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner submitting that the petitioner established

physical relationship giving inducement of marriage to the informant.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the voluntary nature of conduct of the informant and further considering the submission of charge sheet along with period of custody of the petitioner, 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 Additional District and Sessions Judge-VIIth-cum-Special Judge (POCSO), Bettiah, West Champaran in connection with Bagaha Mahila P.S. Case No. 42 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.

(Arun Kumar Jha, J)

Gautam/daya

U		T	
---	--	---	--