

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40214 of 2021

Arising Out of PS. Case No.-333 Year-2019 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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Bari @ Sanjay Kumar, S/o Ramashish Sahni, R/o Mohalla- Akhara Ghat,
Surya Mandir, P.S.- Town, District- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate
		Mr. Yugal Kishore, Advocate
		Ms. Rupa Kumari, Advocate
For the Opposite Party/s :		Ms. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 10-02-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

The petitioner, who is in custody since 31.12.2020,
seeks regular bail in connection with Town P.S. Case No. 333 of
2019, registered for the offences punishable under Sections 363
and 366A of the Indian Penal Code.

The prosecution case, in brief, is that on the basis of
written complaint made by one Munna Rajak on 17.04.2019,
stating therein that, on 16.04.2019 at 4.00 pm in the evening his
minor daughter aged about 12 years went outside the house and

did not return back. On search, the girl was recovered by them at railway platform. The informant come to know that Sanjay Kumar @ Bari (Petitioner), who works in the tea stall of Ganesh Mahto, has lured away his minor daughter. On the basis of this written complaint police registered the present case.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has not committed any offence rather the victim girl was recovered by her parents and a false case has been lodged against him. He further submits that the ingredients of Section 366A of I.P.C. is not attracted if taken into the totality of the allegation in the FIR or in the statement of the victim under Section 164 of Cr.P.C. against the petitioner and as such no offence is made out against this petitioner under Section 366A of I.P.C. in absence of any eye-witness to the alleged offence, and false allegation has been made that the victim girl has named the present petitioner that he has taken her along with him and left her at Sitamarhi Station.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner and submits that the age of the victim girl has assessed to be 14 years and victim is minor and the consent of her guardian is must. He further submits that

investigation is still pending. However she submits that the girl has stated in her statement that no such illicit act was done by the petitioner.

Considering the aforementioned facts and circumstances of the case and having perused the F.I.R., the statement of victim girl, nowhere it is stated that the petitioner committed sexual intercourse on her or there was any sexual advances on her. Petitioner has contended that false allegations are made against him. The alleged offence under Section 366A and 363 of IPC are not exclusively punishable with death or imprisonment of life. Hence looking into all these materials and the petitioner who is in custody since 31.12.2020, the petitioner above named is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Muzaffarpur in connection with Town P.S. Case No. 333 of 2019, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) petitioner shall co-operate in the trial and shall be

properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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