

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41820 of 2021**

Arising Out of PS. Case No.-36 Year-2021 Thana- MAJHAULIA District- West Champaran

Hasan Hawari @ Hasan Alam S/O Nizamuddin Hawari @ Dhiwari Hawari
R/O Village-Ram Nagar Bankat, Nayka Tola, Ward No. 8, P.S- Manjhaulia,
District-West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mohammad Sufyan, Adovcate Mr. Thakur Brajesh Singh, Advocate
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, APP Mr. Sachida Nand Rai, Advocate

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 06-01-2022 This application has been taken up for online hearing
through video conference because of COVID-19 pandemic
restrictions.

Heard learned counsel for the petitioner, learned
Additional Public Prosecutor for the State and learned counsel
for the informant.

This application for regular bail arises out of
Manjhaulia P.S. Case No. 36 of 2021, disclosing offence
punishable under Sections 363, 366A/34 of the Indian Penal
Code and under Section 8/12 of the POCSO Act.

Petitioner is in custody since 15.03.2021.

Learned counsel appearing on behalf of the petitioner



has drawn my attention to the contents of the F.I.R. to contend that the provision under Section 8/12 of the POCSO are not made out, inasmuch as, there is no allegation nor any material to suggest any sexual assault. He has submitted that at the maximum, an offence under Section 363 of the I.P.C. can be said to be made out on the basis of what has been alleged in the F.I.R.. He further contends that the case of the prosecution is highly improbable and malicious.

Learned counsel appearing on behalf of the informant has opposed the prayer for bail.

On perusal of the first information report, I find substance in the submission made on behalf of the petitioner. Allegedly, the victim, a minor, when she had gone to attend the call of the nature, in the night, she was kidnapped and subsequently she was recovered. There is no allegation in the F.I.R. of any sexual assault nor any motive behind the commission of the offence alleged in the F.I.R..

Considering the facts and circumstances as noted above, in my opinion, a case for grant of regular bail is made out, as in my opinion, no offence under the provisions of POCSO Act can be said to be made out. This application is accordingly allowed.



Let the petitioner, above-named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand), with two sureties of the like amount, each to the satisfaction of learned Chief Judicial Magistrate, West Champaran, Bettiah in Manjhaulia P.S. Case No. 36 of 2021.

(Chakradhari Sharan Singh, J)

K.K.RAO/-

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