

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42718 of 2021**

Arising Out of PS. Case No.-121 Year-2021 Thana- GOVINDGANJ District- East
Champaran

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1. Pintu Ahmad @ Gappu Mian S/o Isteyak Ahmad @ Lallu Mian @ Isatayak
Resident of Village - Mura, P.S. - Govindganj, District - East Champaran.
 2. Tanvir Mian S/o Md. Alam Resident of Village - Sujayatpur, P.S. -
Govindganj, District - East Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh, Advocate
For the Informant	:	Mr. Umesh Chandra Verma, Advocate
For the Opposite Party/s	:	Mr. Narsingh Tanti, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 12-01-2022 Heard learned counsel for the petitioners, learned
counsel for the informant, Shri Umesh Chandra Verma and
learned A.P.P. for the State, Shri Narsingh Tanti through virtual
Court proceedings.

The petitioners seek regular bail in connection with
Govindganj P.S. Case No. 121 of 2021 instituted for the
offences under Sections 363, 365, 366A and 34 of the Indian
Penal Code read with Section 8 of the POCSO Act.

Learned counsel for the petitioners submits that the
petitioners are in custody since 13.04.2021, are persons with
clean antecedent and charge-sheet has been submitted in the
case.



Learned counsel for the petitioners submits that informant in the F.I.R. alleges that her daughter was not found in the house in the morning and the door was found open and thus alleges that petitioners who are his renters and have cloth business, used to talk to his daughter and from copy of the victim, a mobile number of one Sachin was also found and thus also alleges that petitioners kidnapped the victim and that she also took Rs. 11,000/-, a laptop and ornaments along with her.

Learned counsel for the petitioners submits that from perusal of the allegation as alleged it would manifest that it *prima-facie* shows that the victim and the petitioner no. 1 were in love or else the victim while eloping would not have taken along with her money, laptop and ornaments. Further, from perusal of the allegation as alleged it would manifest that the informant alleges that in the morning, he found the door opened that in itself signifies that the victim on her volition opened the door and allowed the petitioners to enter and thereafter they eloped. Learned counsel further submits that the date of occurrence is 07.04.2021 and the F.I.R. has been instituted on 10.04.2021 and there is no explanation for the delay and only reason is that the informant was aware that the victim has fled away with petitioner no.1 with whom she was in love. It is



further submitted that doctor assessed her in between 18-19 years and the victim was recovered on 12.04.2021 but her statement under Section 164 Cr.P.C. was not promptly recorded rather the same was recorded on 14.04.2021 i.e. after a delay of two days under parental pressure she made the statement where she disclosed her age as fifteen years and stated that petitioner no. 1 asked her to accompany him to Assam for purposes of marriage and when she refused, she was kidnapped by making her unconscious along with petitioner no. 2. Learned counsel submits that if the victim was kidnapped by making her unconscious then how come the door was opened which was locked from inside and why the victim fled along with cash, laptop and ornaments.

Learned counsel for the informant vehemently opposes the prayer for bail of the petitioners and submits that the victim is a minor as per registration card issued by Bihar School Examination Board.

Learned A.P.P. for the State also vehemently opposes the prayer for bail of the petitioners.

Learned counsel for the petitioners rebutting the statement of learned counsel for the informant submits that admittedly the doctors have assessed the victim in between 18-



19 years and the document on which reliance is being placed is not a document based on which it can be said with certainty that victim is a minor and further the victim had reached the age of discretion and the F.I.R. and her statement under Section 164 Cr.P.C. clearly reflects that it was a case of love affair as submitted aforesaid.

Considering the fact that the petitioners are in custody since 13.04.2021, charge-sheet has been submitted in the case, petitioners are persons with clean antecedent and the victim in her statement under Section 164 Cr.P.C. has not alleged regarding sexual assault against the petitioners, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-cum-Spl. Judge, POCSO Act, East Champaran at Motihari in connection with Govindganj P.S. Case No. 121 of 2021.

(Satyavrat Verma, J)

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