

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13408 of 2022

Arising Out of PS. Case No.-361 Year-2021 Thana- NAUTAN District- West Champaran

Amarjeet Kumar Son of Badari Ram Resident of Village - Dhumnagar, P.S.-
Nautan, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 33067 of 2022

Arising Out of PS. Case No.-361 Year-2021 Thana- NAUTAN District- West Champaran

Kishore Ram Son of Bhabhichhan Ram @ Bhabichan Ram @ Bhabighan
Ram Resident of Village- Purvi Harijan Toli, P.S.- Nautan, District- West
Champaran.

... .. Petitioner/s

Versus

The state of Bihar.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 13408 of 2022)

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate.

For the Informant : Mr. Sanjeev Kumar Shrivastava, Advocate.

For the Opposite Party/s : Mr. Shantanu Kumar, APP.

(In CRIMINAL MISCELLANEOUS No. 33067 of 2022)

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastava, Advocate.

For the Informant : Mr. Sanjeev Kumar Shrivastava, Advocate.

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 17-10-2022 Learned counsel for the petitioners is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Both the applications arise out of the same police
station and with the consent of the parties are being heard
together and disposed of by this common order .

Heard Mr. Umesh Chandra Verma, learned counsel



for the petitioner in Cr. Misc. No. 13408 of 2022, Mr. Akhileshwar Kumar Shrivastva learned counsel for the petitioner in Cr. Misc. No. 33067 of 2022 and Mr. Sanjeev Kumar Shrivastava, learned counsel for the informant as well as learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Nautan P.S. Case No. 361 of 2021, registered for the offences punishable under Sections 366A/34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

The prosecution case is based on a written report filed by the informant alleging therein that on 14.09.2021 at about 12:30 pm, while the informant was in her house, in the meantime all the accused persons including the petitioner Amarjeet Kumar, taken away her daughter, aged about 15 years on a motorcycle, for the purposes of marriage with the petitioner Kishore Ram, who is living outside of his house for his livelihood. It is also alleged that while fleeing away, her daughter has also taken away Rs.20,000/-, which was kept in her house.

It is submitted by the learned counsels appearing on behalf of the petitioners that from the FIR, it would be evident



that the victim while fleeing away from her house had taken Rs.20,000/-, which shows that she left her house voluntarily and in fact it was a case of love affair, which fact has also come during the course of investigation. They further submits that during the course of investigation, the victim herself appeared before the court and her statement was recorded under Section 164 of the Cr.P.C., wherein she has categorically stated that she voluntarily left her house and solemnized marriage with Kishore Ram (Petitioner) and thereafter, she started living as husband and wife, having pregnancy of two months. Learned counsels for the petitioners also submitted that there is no allegation of any force or enticement against the petitioners, apart from the fact that the victim was examined by a Medical Board, consisting of four members of the doctors and they have assessed the age of the victim in between 19 to 21. The birth certificate of the victim has also been brought on record, which suggest the date of birth of the victim as 02.12.2003. It is next submitted that now the investigating of the crime is already complete and the charge-sheet has been submitted and it is not the case of the prosecution that the petitioners are indulged in tempering of evidence and intimidating the witnesses. The petitioners are ready to give undertaking that they will fully



cooperate in the trial till its conclusion. While concluding their statement they candidly submitted that both the petitioners having fair antecedent, are in custody since 07.01.2022 and 23.04.2022 respectfully.

On the other hand learned counsel for the informant vehemently opposes the bail application and submitted that there is specific allegation against the petitioner Amarjeet Kumar, that he has taken away the minor victim on his motorcycle and this fact has been supported by all the witnesses. He also submitted that in fact the victim is a minor, aged about 15 years and the petitioner Kishore Ram is a married person, who by enticing the girl has not only solemnized marriage, but committed wrongful act, which constituted penal offence under the POCSO Act, apart from the offences punishable under the Indian Penal code.

The learned counsel for the State also opposed the bail application and submitted that the police after investigation, found the case true against the petitioners and submitted charge-sheet showing their complicity in the present crime.

Regard being had to the submissions made on behalf of the parties and considering the fact and the materials available on the record, especially the statement of the victim



recorded under Section 164 of Cr.P.C. as well as the report of the Medical Board, suggesting the age of the victim in between 19 to 21 years, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VI-cum-Special Judge, POCSO, West Champaran at Bettiah, in connection with Nautan P.S. Case No. 361 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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