

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46252 of 2021

Arising Out of PS. Case No.-80 Year-2021 Thana- TARIYANI CHOWK District- Sheohar

Shankar Mahato, Son of Padarath Mahato, Resident of Village- Kushahar
Kaswa Tola, P.S.- Tariyani, Distt.- Sheohar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-04-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Tariyani P.S. Case No. 80 of 2021 for the offences punishable under Sections 363, 365, 366(A) and 120B/34 of the Indian Penal Code. However, after investigation, charge-sheet has been submitted under Sections 363, 366A, 376 of the Indian Penal Code, Section 4 of the POCSO Act and Section 9 of the Child Marriage Restraint Act.

As per the prosecution case, it is alleged that on 02.04.2021 the informant's daughter, aged about 17 years, went



to market for purchasing some stitching articles, but she did not come back home. Later on, the informant came to know that all the accused persons including this petitioner kidnapped his daughter for the purpose of marriage.

It is submitted on behalf of learned counsel for the petitioner that the occurrence is said to have been taken place on 02.04.2021, but the F.I.R. has been registered on 06.04.2021, after a delay of four days. It is further submitted that when the victim returned to her house, her statement has been recorded under Section 164 of the Cr.P.C., which has been brought on record by way of Annexure-2 to this application. From bare perusal of the same, it appears that the victim has categorically stated that she has voluntarily left her house and went to her maternal uncle's (Mama) house. She also stated that when she came to know that her father had instituted F.I.R. against 5-6 persons, she returned to her house. She has stated that none of the person had kidnapped her. It is submitted on behalf of the petitioner that the girl was also examined by the Medical Board and her age has been assessed as 19 years. However, only the early pregnancy has been shown, which fact has also come in paragraph 46 of the case diary. It is lastly submitted that the petitioner has no criminal antecedent and he is in custody since



16.04.2021 and there is no allegation of any force or enticement against this petitioner.

On the other hand, learned counsel for the State opposes the bail application of the petitioner. However, he is not able to confront with the statements of the victim recorded under Section 164 of the Cr.P.C.

Having heard the learned counsel for the parties and taking into consideration the fact that for the occurrence said to have taken place on 02.04.2021, the F.I.R. has been instituted on 06.04.2021 and thereafter statement of the victim under Section 164 of the Cr.P.C. was recorded, in which she denied the prosecution case and categorically stated that she voluntarily left her house for her maternal uncle's house. However, the Medical Board has also assessed the age of the victim as 19 years and this petitioner having no criminal antecedent and is in custody since 16.04.2021, apart from the fact that there is no allegation against the petitioner of any enticement or use of any force, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge-1, Sheohar in connection with Tariyani P.S. Case No. 80 of 2021 subject to the condition that one of the bailors



will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial. (ii) He will remain present on each and every date of trial till disposal of the case. (iii) He 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, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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