

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37604 of 2022

Arising Out of PS. Case No.-436 Year-2020 Thana- MAJHAULIA District- West Champaran

Prem Mukhiya Son Of Sahdev Mukhiya Resident of Village- Murgiya Tola,
P.S- Ramgarhwa, District- East Champaran(Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Adya Singh, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 02-12-2022 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

Let the defect (s), if any, as pointed out by the office,
be removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Manjhauliya P.S. Case No. 436 of 2020
registered for the alleged offences under Sections 366(A) and
494/34 of the Indian Penal Code and Sections 8 and 12 of the
POCSO Act.

As per prosecution case, the minor daughter of the
informant went missing and the informant named the petitioner
along with other co-accused persons who enticed away her
daughter with intention to solemnize the marriage of the
daughter of the informant with the petitioner.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is evident that the alleged occurrence took place on 18.06.2020 but the FIR was lodged on 22.06.2022 i.e. after delay of four days and for this there is no satisfactory explanation. The victim was recovered from the house of the co-accused Birijhan Paswan after conducted a raid on his house. The victim has recorded her statement under Section 164 Cr.P.C. wherein he has made allegation against this petitioner that he committed rape with her but when the deposition of the victim girl was recorded before the learned trial court, she did not make any such statement and rather she was declared hostile as she did not support the prosecution case at all. Neither the informant nor the other witnesses supported the prosecution case in their deposition before the learned trial court and the witnesses have been declared hostile. Learned counsel further submits that the prosecution case has thus no legs to stand. The petitioner is in custody since 04.06.2022 and he is having clean antecedent.

Learned APP opposes the prayer for baiul.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the subsequent development, i.e., the recording of evidence of the



victim girl as well as the informant and other witnesses who did not support the prosecution case and retracted their allegation against this petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO-cum-Additional District Judge-VI, Bettiah, West Champaran, in connection with Manjhauliya P.S. Case No. 436 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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