

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2238 of 2022

Arising Out of PS. Case No.-50 Year-2022 Thana- KHODAWANDPUR District- Begusarai

Md Akhtar Son Of Md. Rajjak R/O Village- Bariyarpur Pashchimi Ward No. 2, Bariyarpur, Mejhaul, P.S.- Khudabandpur, Distt.- Begusarari

... .. Appellant/s

Versus

1. The State of Bihar
2. Nilam Devi wife of Amresh Ram resident of village- Bariyarpur west, P.s.- Khodawandpur, District- Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Singh, Adv.
For the Respondent/s : Mr. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 17-11-2022 Let the defect(s), if any, be removed within two weeks from today.

Heard learned counsel for the appellant and learned A.P.P. for the State.

The appellant seeks regular bail in connection with Khudabandpur P.S. Case No. 50 of 2022 lodged under Sections 366 (A), 504, 506, 34 of the I.P.C. and 3 (1) (R) (S), 3 (2) (V) SC/ST Act.

Learned counsel for the appellant submits that vide order dated 02.11.2022, service of notice is treated to be validly served upon respondent no. 2.

As per prosecution case, the informant/respondent no.

2 has alleged that her niece used to reside with her since childhood. Allegation has been made against the appellant is that he kidnapped the informant's niece with a view to marry her. When informant requested the family members of the appellant to return her niece, they started abusing her and used abusive language.

Learned counsel for the appellant submits that appellant is innocent and has committed no offence. He further submits that from the F.I.R. it transpires that the date of crime is 23.03.2022 and F.I.R. lodged on 01.03.2022, there is a delay of about 5 days. Learned counsel for the appellant further submits that the allegation of kidnapping is absolutely false, as the alleged victim has been recovered and deposed her statement under Section 164 of Cr.P.C. In her statement, the alleged victim has stated that she went with the appellant and lived with him for 4-5 days. It has been stated by the victim that behaviour of the appellant with the alleged victim was good and nothing wrong was done to her.

Learned counsel for the appellant submits that appellant is innocent and has committed no offence. He further submits that appellant is in custody since 06.03.2022 having clean antecedent and he is ready to fulfill all the conditions

whatsoever shall be imposed upon him. Learned counsel for the appellant has annexed the Medical Board report in which opinion has come that no opinion about recent sexual assault can be given as petitioner refused for her examination.

Learned counsel for the State opposes the prayer for bail.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge, POSCO Act, Begusarai in connection with Khudabandpur P.S. Case No. 50 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the

petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

Accordingly, the order dated 12.05.2022 passed by Additional District and Sessions Judge, POSCO Act, Begusarai in connection with Khudabandpur P.S. Case No. 50 of 2022 is hereby set aside.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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