

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48126 of 2021**

Arising Out of PS. Case No.-62 Year-2021 Thana- MADHWAPUR District- Madhubani

Harishankar Sah S/O Late Ram Bhajan Sah R/O Village-Kohbarwa, P.S-
Sonbarsha, District-Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

5 29-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Madhwapur P.S. Case No. 62/2021 registered for the offences
punishable under Sections 9/10 of the Prohibition of under Age
Act 2006 (the Child Marriage Act, 2006) and under Section 8 of
the POCSO Act.

As per prosecution case, the petitioner was residing in
Ward No. 12 at Madhwapur and the allegation is that the
accused petitioner married with minor victim girl on
07.05.2021, despite the present petitioner has already married
and having four children and out of which three have ready been
married.

Learned counsel for the petitioner submits that the
petitioner is husband and he is innocent and has falsely been



implicated in the is case. The petitioner is in custody since 11.05.2021 and the petitioner bears no criminal antecedent. He further submits that the victim was produced before the medical board and her age has been assessed 18-19 years old. The marriage was solemnized with the consent of victim as well as her mother. Charge sheet has been submitted in this case and there is no likelihood of tampering the evidence.

Learned counsel for the petitioner further submits that the wife of petitioner has died in 2017 after that he was married with another lady, namely, Manturiya Kumari.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case and pursuant to order dated 31.03.2022 of this Court, the office of Superintendent of Police, Madhubani has sent a report vide letter No. 299/ Legal dated 25.04.2022, in which it has been categorically mentioned that wife of the petitioner has died on 24.09.2017 during treatment and the said fact mentioned in para 10 of the bail petition. Impugned order has categorically mentioned the age of victim is between 18-19 years on the basis of radiological finding given by the Medical Board, as well as period of custody and keeping in view clean antecedent of



petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge cum Special Judge, POCSO Act, Madhubani in connection with Madhwapur P.S. Case No. 62/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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