

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38541 of 2022

Arising Out of PS. Case No.-485 Year-2021 Thana- PATLIPUTRA District- Patna

Ashutosh Kumar @ Raj @ Ashutosh Raj, S/o Arvind Sah R/o village-
Saidpur, P.S.- Khodamanpur @ Khodawanpur (Chhaurahi O.P.), Distt.-
Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar, Advocate Mr. Ashutosh Kumar, Advocate
For the Opposite Party/s	:	Mr. Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-10-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Shashank Shekhar, learned counsel for the
petitioner as well as learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Patliputra P.S. Case No. 485 of 2021 (G.R. No.
6512 of 2021) registered for the offences punishable under
Sections 363, 366(A) of the Indian Penal Code.

The prosecution case is based on a written report
filed by the informant alleging therein that his daughter 'X'
disappeared on 11.08.2021 for which he had lodged an FIR
being 408 of 2021 on 12.08.2021. It is further alleged that the



daughter of the informant recovered on 17.08.2021 from the house of the petitioner. It is further alleged that his daughter again fled away along with the petitioner after taking Rs. 25,000/- and other valuables from her house. The informant came to know that the petitioner and his family members by enticing his daughter for property, took away to different place. The informant also alleged that the petitioner in connivance with the daughter of the informant also withdrawn Rs. 14642/- from the joint account of the informant and his wife.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it would be evident that save and except the allegation of enticement against the petitioner there is no allegation of any wrongful act and it also appears that the victim herself left her home along with the valuables and cash of Rs. 25,000/-. He next submits that during the course of investigation, the victim was recovered and her statement has been recorded under Section 164 of the Cr.P.C., wherein, she has categorically stated that she herself voluntarily left her house and reached to Delhi by train where this petitioner reside and thereafter, she started living there with the petitioner at Gurgaon. He further stated that as her father is step-father and she does not want to live with him and because of some mental



torture, she voluntarily left her house and reached to Delhi. Learned counsel for the petitioner submits that from the entire statement of the victim, it appears that no allegation, much less, even enticement, has been leveled against the petitioner. He also submits that the victim was also examined by the medical board and her age was determined as 14-16 years, however, no sign of sexual assault has been found over her body nor any such complaint has been made against the petitioner. He lastly submits that the petitioner is a man of fair antecedent, is aged about 20 years, is in custody since 14.10.2021 and is ready to give undertaking that he will fully co-operate in the trial.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the victim is a minor girl and her consent is immaterial.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim, recorded under Section 164 of the Cr.P.C., wherein, no allegation much less even the allegation of enticement has been leveled against the petitioner, apart from the fact the petitioner, having fair antecedent, is in custody since 14.10.2021, 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 learned Additional Chief Judicial Magistrate-X, Patna in connection with Patliputra P.S. Case No. 485 of 2021 (G.R. No. 6512 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. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

(Harish Kumar, J)

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