

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57550 of 2021

Arising Out of PS. Case No.-139 Year-2019 Thana- GHORASAHAN District- East
Champaran

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Amit Thakur, S/o Jokhan Thakur, R/o Village- Latihanwa, P.S- Adapur,
District-East Champaran, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj, Advocate
For the Opposite Party/s : Mrs. Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-09-2022 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. Vikash Kumar Pankaj, learned counsel for
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Ghorasahan P.S. Case No. 139 of 2019
registered for the offences punishable under Sections 363,
366A/34 of the Indian Penal Code. However, charges have been
framed under Sections 363, 366A, 376, 376(D)/34 of the Indian
Penal Code and Section 4/6 of the Protection of Children from
Sexual Offences Act.

As per prosecution case, it is alleged that on



21.04.2019, at about 10:30 PM, while the informant and other family members were sleeping, in the meantime, all the accused persons, including the petitioner, barged into the house of the informant and abducted his daughter and taken away on a Bolero Car after assaulting him and other family members.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that all the family members have been implicated in this case against whom there was prior animosity, which is also evident from the statement of the victim, recorded under Section 164 of the Cr.P.C. He next submits that prior to the institution of this case, one Ghorasahan P.S. Case No. 16 of 2019 was also registered against the petitioner and others by the same informant with absurd allegation and taking into consideration the absurdity of the allegation, the petitioner was granted bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 55776 of 2021 vide order dated 22.02.2022. He further submits that surprisingly after six months, the victim appeared before the police and her statement was recorded under Section 164 of the Cr.P.C. and from bare perusal of the same, it would appear that the same is full of contradictions and thoroughly unreliable, as the same does not disclose the details relating to her kidnapping



and other relevant facts as to where she was kept during her alleged kidnapping for a period of six months. He next submits that from the F.I.R., it would be evident that she was taken by the accused persons on a Bolero, but the victim in her statement recorded under Section 164 of the Cr.P.C. stated that she was taken away by the petitioner on his motorcycle, thereafter, she was kept at Motihari for 11 days and from where she was taken to Mumbai, but at no point of time she has made any hue and cry for her release. He next submits that the victim was examined by the medical board, where her age has been assessed as 17-18 years, however, no sign of sexual assault has been found. He lastly submits that the petitioner is in custody since 09.10.2020 and, moreover, the charges have been framed and the petitioner is ready to give undertaking that he will remain present on each and every date till conclusion of the trial.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that specific allegation has been leveled against the petitioner that he took away the victim and committed wrongful act with her. She also drawn the attention of this Court towards the statement recorded under Section 164 of the Cr.P.C. wherein she has been



made various allegation against the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the contradictions of the statements made by the informant and the victim in the F.I.R., as well as the statement recorded under Section 164 of the Cr.P.C., apart from the fact that earlier a similar kind of case was registered by the informant, by making absurd allegation, coupled with the period of incarceration and the charges having been framed, 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 6th Additional Sessions Judge-Cum-Special Judge POCSO, Motihari, East Champaran, in connection with Ghorasahan P.S. Case No. 139 of 2019 subject to the condition that one of the bailors will be the close relative 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.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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