

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59123 of 2021

Arising Out of PS. Case No.-612 Year-2020 Thana- MADHEPURA District- Madhepura

Uma Shankar Yadav @ Chhotu, S/o Gopalji Yadav @ Gopal Yadav, R/o
village- Toksihpur @ Toxipur (Itba), P.S.- Gamaharia, District- Madhepura
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Sanjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-04-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Madhepura (Ghailarh) P.S. Case No. 612 of
2020 (POCSO Case No. 31 of 2020) for the offences punishable
under Sections 363 and 366(A) of the Indian Penal Code and
Section 8 of the POCSO Act.

As per prosecution case, the informant submitted his
written report that on 03.08.2020 while his daughter, aged about
16 years, was reading at the door, all the F.I.R. named accused
persons including this petitioner and some unknown persons
forcibly took his daughter, which was identified by his wife.



It is submitted on behalf of the learned counsel for the petitioner that the occurrence is said to have taken place on 03.08.2020, but with regard to the said occurrence written report was submitted on 11.08.2020, after a delay of 8 days of the occurrence. It is further submitted that on 15.10.2020, the police recovered the victim and her statement was recorded under Section 164 of the Cr.P.C. (Annexure-2 to the bail application). In her statement, the victim categorically stated that the petitioner and two other accused persons had come in her house and thereafter they had taken away the victim. She further stated that this petitioner wanted to get marry her, but she refused to marry with him. The victim categorically stated that all the three accused persons including this petitioner has not committed any wrongful act. It is lastly submitted on behalf of the learned counsel for the petitioner that co-accused Sushil Kumar @ Sushil Yadav has already been granted bail by a coordinate Bench of this Court in Cr. Misc. No. 11044 of 2021 vide order dated 06.07.2021 (Annexure-4 to the bail application). Learned counsel for the petitioner has also drawn the attention of this Court towards the report of the Medical Board wherein the age of the victim has been assessed in between 16 to 18 years. The petitioner is in custody since 03.07.2021.



On the other hand, learned APP for the State vehemently opposes the bail application and has submitted that there is specific allegation against this petitioner that he had taken away the victim for the purpose of marriage.

Having considered the submissions of the parties and taking into consideration the fact that with regard to an occurrence, which was taken place on 03.08.2020, the F.I.R. has been instituted on 11.08.2020 (after a delay of 8 days), and further the victim has categorically stated that all the accused persons including this petitioner have not committed any wrongful act with her, apart from the fact that co-accused has already been granted bail by a coordinate Bench of this Court and this petitioner having no criminal antecedent and is in custody since 03.07.2021, 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 Special Judge, POCSO Act, Madhepura in connection with Madhepura (Ghailarh) P.S. Case No. 612 of 2020 (POCSO Case No. 31 of 2020) 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.

(Harish Kumar, J)

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