

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.48633 of 2022**

Arising Out of PS. Case No.-365 Year-2021 Thana- GORAU District- Vaishali

Suresh Ray @ Bablu S/o Kapil Ray R/o village- Badur Chhapra, P.S.-
Mushari, District- Muzaffarpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. Mukesh Kumar, Advocate
For the Opposite Party/s :	Mr. Akhileshwar Dayal, APP
For the Informant :	Mr. Manish Chandra Gandhi, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 09-12-2022 Heard learned counsel for the petitioner, the informant has entered appearance through Mr. Manish Chandra Gandhi, learned counsel and Mr. Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case is seeking regular bail in connection with Goraul P.S. Case No. 365 of 2021 dated 17.09.2021 for the offences punishable under Sections 363/366(a) of the Indian Penal Code. On 26.11.2021, Section 376 of the Indian Penal Code and Section 4 of the POCSO Act were also added. He is in custody since 18.06.2022. He has no criminal antecedent.

The informant is mother of the victim girl who has alleged that her daughter aged about 12 years was engaged in selling of vegetables, she was not found at her house on



16.09.2021 at about 5.00 PM whereafter the informant went in search of her daughter. She came to know that (1) Rajdeo Singh and (2) Suresh Singh have taken away her minor daughter with an intention to marry. It is alleged that one briefcase containing cash of Rs. 20,000/- and ornaments worth Rs. 50,000/- were also taken away. The informant thereafter, alleges that this was seen by some co-villagers. The accused Rajdeo Singh is said to have told them that today is 'Thursday' and she was going to do marketing work whereafter the co-villagers could not stop them. It is alleged that when her husband went to the house of Suresh Singh, he was told not to come again otherwise he would be killed.

Learned counsel submits that the alleged occurrence of missing of the daughter of the informant took place on 16.09.2021 at 05.00 P.M. but the FIR was lodged on 17.09.2021 at about 03.10 P.M.

Learned counsel further submits that so far as this petitioner is concerned, he is not named in the FIR. The victim girl came back and made her statement under Section 164 Cr.P.C. In her statement, she has stated that her parents had scolded her for studies whereafter she had fled away from her house and her neighbour Dhiraj Kumar had left her at her



Mausi's place from where she was returning after a day but the police caught her. Before the learned Magistrate, she has stated that nobody has kidnapped her and she had come to the court with her mother and father.

Learned counsel submits that the co-accused Dhiraj Kumar who had allegedly left the victim girl at her Mausi's place has been granted regular bail by learned co-ordinate Bench of this Court vide order dated 05.07.2022 passed in Cr. Misc. No. 10566 of 2022. A copy of the same has been enclosed as Annexure '2'. In the said order also, the statement of the victim has been taken note of.

It is submitted that the petitioner has been arrested later on on mere suspicion on 17.06.2022. Prior to his arrest, police had not obtained any warrant against him, therefore, it cannot be said that the petitioner was in any way found involved in the alleged occurrence. The petitioner is a daily-wage earner and has his own family.

On the other hand, learned counsel for the informant has opposed the bail application. It is stated that the trial has begun and the victim girl has now changed her statement in course of trial and she has stated that she had made the statement under Section 164 Cr.P.C. as tutored by Dhiraj Kumar.



Learned APP for the State has simply opposed the prayer for bail of the petitioner.

Having heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State, in view of the fact that the petitioner is not named in the FIR, the victim girl has categorically stated that she had left her house on her own will after she was scolded by her parents and it was Dhiraj Kumar who had left her at her Mausi's place, there being no allegation of commission of any indecent act, taking note of the statement under Section 164 Cr.P.C., Dhiraj Kumar has been granted bail by learned co-ordinate Bench of this Court, in the circumstances, the petitioner who has remained in jail for about six months by now and is ready to abide by such terms and conditions which may be imposed upon him to secure his presence in course of trial and there being no submission either on behalf of the informant or the State that his release is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs release of the petitioner on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge VI -cum- Special Judge, POCSO,



Vaishali at Hajipur in connection with P.S. Case No. 365 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

The petitioner shall appear on the date fixed in course of trial and in case of two consecutive defaults for no cogent reason, the learned court below may proceed to cancel the bail bond of the petitioner.

And further condition that 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 steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application is allowed.

Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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