

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63902 of 2021

Arising Out of PS. Case No.-19 Year-2021 Thana- MAJHAULIA District- West Champaran

GUDDU PASWAN @ GUDDU KUMAR, S/o Jitendra Paswan @ Jitendar
paswan R/o Village - Ahwar Sheikh, Kudiya Khajurbati Tola, Ward No. 3,
P.S. - Majhauilya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Bharat Lal

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 30-03-2022 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in a case registered for the
offences under Section 363, 366A 457 and 380 of the I.P.C. read
with Section 8 and 12 of the POCSO Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 26.08.2021, he is a person with
clean antecedent, chargesheet has been submitted and is a young
of 21 years.

The learned counsel for the petitioner submits that
informant alleges that while he along with his family were
slipping, the petitioner and his father entered the house of the
informant and assaulted the family members and took away



ornament cash which the informant had kept for his daughter's marriage and also took away his minor girl, further on the next day, the family members of the petitioner informed that he has fled with his daughter and they will search her and even after four days, his daughter could not come.

The learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that it is a case of elopement and it is submitted that it absolutely does not stand to reason that if the victim would have been kidnapped, then the informant would have waited to institute an FIR merely on the assurance of the family members of the petitioner. The learned counsel further submits that it also does not stand to reason that father and son would come together for committing the occurrence and would kidnap the minor daughter of the informant. The learned counsel further submits that the victim was in love with the petitioner and they eloped, the informant was aware of this fact and as such had not instituted the case but later, it appears that under some mis-guidance, the present false case came to be instituted, the learned counsel further submits that petitioner is a major, as would be evident from the birth certificate issued by the Government of Bihar, as contained in Anneuxre-2, though in the



impugned order, it has been recorded that victim is a minor and her date of birth is 08.04.2007, as per the school certificate issued by Rajkiya Madhya Vidlaya, Baikushthawa. The learned counsel further submits that even the doctor has assessed the victim to be in between 15-17 years of age. The learned counsel lastly submits that the victim is given a complete go-by to the prosecution story and has not even remotely supported the case of the prosecution regarding kidnapping. In her statement under Section 164 of the Cr.P.C., it is thus submitted that if the victim does not support the case of the prosecution, then age also become irrelevant. The learned counsel submits that presently he does not have a copy of the statement of the victim made under Section 164 Cr.P.C.

The learned A.P.P. opposes the bail application.

Considering the fact petitioner is in custody since 26.08.2021, he is a person with clean antecedent and charge-sheet has been submitted and is a young boy of 21 years of age and as submitted by learned counsel for the petitioner that the victim had not supported the prosecution case, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of



learned Court below where the case is pending in connection with Majhaulia P.S. Case No. 19 of 2021.

The petitioner shall be released only when the learned Court below after perusing the statement of the victim under Section 164 Cr.P.C. is satisfied that she has not supported the allegation of kidnapping.

The application stands allowed.

(Satyavrat Verma, J)

sanjeev/-

U		T	
---	--	---	--

