

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63875 of 2021

Arising Out of PS. Case No.-143 Year-2021 Thana- KISHUNPUR District- Supaul

Azizulah @ Azizullah Son of Late Zamirullah, Resident of Village - Damaria,
P.S. - Gardanibag, District - Patna.

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar

For the Opposite Party/s : Mr. Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-03-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 363, 366A, 34 of the Indian Penal Code and Section 8 and 12 of the POCSO Act.

The learned counsel for the petitioner submits that the petitioner is in custody since 30.07.2021, he is a person with clean antecedent and charge-sheet has been submitted in the case.

The learned counsel for the petitioner submits that the informant alleges that on 27.07.2021 at 11.00 P.M. in the night, two unknown persons kidnapped his daughter. Further, he got the mobile number from the mobile phone of his daughter. Thus, alleges that the person, whose mobile was retrieved from the



mobile phone of his daughter, has kidnapped his daughter.

The learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that initially, the informant alleges that the victim was kidnapped by unknown person from her house, but in the later part of the F.I.R., it is alleged that the victim was kidnapped from his shop. Thus, it is submitted that the aforesaid allegation appears to be dichotomic. The learned counsel further submits that the fact that the mobile number of this petitioner was retrieved from the mobile of the victim that in itself shows that the victim and the petitioner were in love and the victim had eloped on her own sweet –will.

The learned counsel further submits that the victim is a resident of Supaul while this petitioner is a resident of Patna and thus, draws the attention of this Court towards the statement of the victim under Section 164 of the Cr.P.C., to submit that the victim in her statement under Section 164 of the Cr.P.C. stated that this petitioner had come to purchase flowerpot at her shop when she gave her number and he started calling to her. The learned counsel submits that it absolutely does not stand to reason that why the petitioner from Patna would have gone to Supaul to buy a flowerpot and that too, from the shop of the



victim. It is further submitted that the victim has to an extent accepted the fact that she had given her number to the petitioner. The learned counsel thus submits that the petitioner and the victim were known to each other. No doubt, the victim has been assessed to be in between 15-17 years by doctors and is a minor, but then she had reached the age of discretion where she was capable of understanding the consequences of her act. The learned counsel further submits that though the victim has stated that she was sexually exploited, but the medical report does not with certainty suggests that rape was committed. Though it records that possibility of rape cannot be excluded.

The learned A.P.P. for the State opposes the bail application and submits that the victim is a minor and she has supported the prosecution case and even the medical report observers that the possibility of rape cannot be excluded. The learned A.P.P. further submits that if the victim had eloped and was in love with this petitioner, then definitely she would not have supported the prosecution case.

Considering the submissions made by the learned A.P.P. for the State, the Court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner



stands rejected, for the present.

(Satyavrat Verma, J)

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