

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65902 of 2021

Arising Out of PS. Case No.-330 Year-2021 Thana- GHORASAHAN District- East
Champaran

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1. Tulshi Kumar, Son of Hareram Sah, Resident of Village - Ram Nagar, P.S.-
Chhauradano, Distt.- East Champaran.
 2. Nitish Kumar, Son of Rupan Rai, Resident of Village - Ram Nagar, P.S.-
Chhauradano, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mrs. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

3 05-09-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Ghorasahan (Jitna) P.S. Case No. 330 of 2021 registered for the alleged offences under Sections 370, 372 and 373 of the Indian Penal Code, Sections 3, 4, 5, 6 and 7(ii) of Immoral Traffic (Prevention) Act 1956 and Section 12 of the POCSO Act.

As per prosecution case, during a drive against human



trafficking and to save childhood, the petitioners along with a minor girl were apprehended on suspicion. The girl stated about love-affair with co-accused Anil Patel and further stated that the petitioners were taking her to Nepal on saying of co-accused.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners acted on saying of the sister-in-law of petitioner no. 1 to bring this girl from Nepal to her relatives as she was her sister. Petitioner no. 2 being a friend accompanied him. Learned counsel further submits that there was love-affair between co-accused Anil Patel and the victim and she left her house along with co-accused and the petitioners. It is surprisingly that though the victim left her house on 04.08.2021, no case was lodged against anyone and it could be presumed that the victim continued her relationship with co-accused with the consent of her family members. There is inconsistency between the statements of the victim girl recorded under Section 161 Cr.P.C. and 164 Cr.P.C. as well as what has been stated in the FIR and it creates a serious doubt over the prosecution case. Since the victim girl was not examined, so her real age could not be assessed and she could be held to be a minor. Learned counsel further submits that informant of this



case is not a family member. The petitioners are in custody since 07.08.2021 and charge-sheet has been submitted. The petitioners are having clean antecedent.

Learned APP opposes the prayer for bail submitting that the petitioners were trafficking the minor girl. Learned APP further submits that the informant disclosed in his statement that victim girl was being taken to Nepal for the purpose of immoral women trafficking. The other witnesses have also supported the occurrence in the FIR. The date of birth of the victim girl was found to be 08.05.2004. Learned APP further submits that even in her statement recorded under Section 164 Cr.P.C., the victim girl has named these petitioners who were taking her away to Nepal however, he concedes that there is no allegation of further wrong doing against the petitioners.

Having regard to the submission made hereinabove and considering the clean antecedent of the petitioners along with submission of charge-sheet and their period of the custody, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court of 6th Additional Sessions Judge-cum-Special Judge POCSO, Motihari, East Champaran in



connection with Ghorasahan (Jitna) P.S. Case No. 330 of 2021,
subject to the conditions mentioned in Section 437(3) of the
Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of
the petitioners.
- (ii) The petitioners will remain present on each
and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates
or in violation of the terms of the bail, the bail
bond of the petitioners will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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