

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69688 of 2021

Arising Out of PS. Case No.-116 Year-2019 Thana- ARER District- Madhubani

Ajay Saday, Son of Sogarat Saday Resident of Village- Jhujhari Paraul, P.S.-
Arer, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Saurabh Bishwambhar, Advocate
		Mr. Sudhir Kumar Mishra, Advocate
For the Opposite Party/s	:	Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 28-09-2022 Heard learned counsel for the petitioner 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 petitioner seeks bail in connection with Arer P.S. Case No. 116 of 2019 corresponding to G.R. No. 899 of 2019 and S.T. No. 278 of 2021 registered for the alleged offences under Sections 363, 366(A) and 34 of the Indian Penal Code.

As per prosecution case, the minor daughter of the informant was enticed away by the petitioner along with his family members for the purpose of marriage.

Learned counsel for the petitioner submits that petitioner



is innocent and has been falsely implicated in this case. There has been a love affair between the petitioner and the minor daughter of the informant and she eloped with him and solemnized marriage with him. Later on, though her statement was recorded under Section 164 Cr.P.C. wherein she has stated about petitioner forcibly taking her to maternal grandmother's house but the said statement was under duress and coercion of her parents. Learned counsel further submits that the occurrence is stated to have taken place on 06.11.2019 but the F.I.R. has been registered on 14.11.2019 and there is no explanation for the delay though the informant says the petitioner and the family members had kidnapped his daughter and he was knowing this fact. Learned counsel further submits that the victim girl has executed an affidavit wherein she has stated that she was not kidnapped and she married with the petitioner on her own and she has also given birth to a daughter on 03.11.2021. Charge sheet has been submitted in this case and the petitioner is in custody since 05.07.2021.

Learned counsel appearing on behalf of the informant admits the factum of marriage between the petitioner and the victim. However, learned APP submits that the consent of minor is immaterial.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the consensual nature of act of the victim girl whose age is assessed to be



16-17 years during medical examination, when one develops sufficient level of maturity and also considering the period of custody of this petitioner and subsequent events, the petitioner above named is 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 Additional Sessions Judge-3rd, Madhubani in connection with Arer P.S. Case No. 116 of 2019 corresponding to G.R. No. 899 of 2019 and S.T. No. 278 of 2021 , subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner 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 petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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