

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.70799 of 2021

Arising Out of PS. Case No.-223 Year-2021 Thana- LAURIA District- West Champaran

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NIRAJ YADAV @ NEERAJ YADAV Son of Dhan Lal Yadav Resident of
Village - Pandari, P.S.- Lauriya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava

For the Opposite Party/s : Mr. Nagendra Prasad

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 15-11-2022 Heard learned counsel for the petitioner and

learned APP for the State.

The petitioner seeks bail in connection with Lauriya
P.S Case No. 223 of 2021, registered for the offences
punishable under Sections 363, 366(A) and 34 of the Indian
Penal Code and Section 8 of the POCSO Act.

The prosecution case as emerges from the FIR is
that the accused-petitioner along with one Bipin Yadav
kidnapped the alleged victim girl, namely, Rima Kumari, with



intent to marry her.

The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He refers to the content of the FIR as well as statement made by the alleged victim under Section 164 Cr.P.C. to substantiate his claim that the case against the petitioner is false. He further submits that as per the statement recorded under Section 164 Cr.P.C., the alleged victim has simply stated that on the date of occurrence i.e. 16.09.2021, the accused, Niraj Yadav and Bipin Yadav had confined her in a room. However, as per the version of the father of the alleged victim, she was kidnapped while she was going to attend the call of nature. As such there is substantive contradiction between the statement of the father and the statement of the alleged victim, which shows the falsity of the alleged offence. He also submits that in her statement she has nothing stated regarding the alleged occurrence when asked by the Ld. Magistrate.

The petitioner has been languishing in jail since 23.10.2021.



It is also stated in paragraph no. 2 of the petition that the petitioner has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has no criminal antecedent.

However, the learned APP for the State vehemently opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstance, particularly, the contradictory statement of the alleged victim and the informant's father, the petitioner, above-named, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Additional District & Sessions Judge-VIIth cum Special Judge (POCSO), West Champaran, Bettiah in connection with Lauriya P.S Case No. 223 of 2021 on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that



investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedent, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioner.

The application stands allowed accordingly.

The learned counsel for the petitioner is directed to



remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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