

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64297 of 2022

Arising Out of PS. Case No.-29 Year-2021 Thana- MUZFFARPUR GRP CASE District-
Muzaffarpur

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SUDHIR MALLIK @ SUJIT KUMAR S/o Late Nand Kishore Mallik @
Sanjay Mallik @ Harish Chandra Kuawar R/o Mohalla/Village- Imli Chatti
Mal Godam Chowk, P.S.- Brahmapura, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Alkhi Devi W/o Munni Lall Sada R/o Imli Chatti, Malgodam Chowk, P.S.-
Brahmapura, Muzaffarpur at present in a Hut Near 8 No. Platform Railway
Station, Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mazharul Hassan, Advocate.
For the Opposite Party no.2: Mr. Pramod Kumar Prasad Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-12-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Mazharul Hassan, learned counsel for the
petitioner and Mr. Pramod Kumar Prasad Singh, for the
informant.

At the outset, learned counsel for the petitioner
submits that earlier a Criminal Appeal (SJ) No.1620 of 2022
was filed on behalf of the learned counsel for the petitioner for
grant of bail, however, in view of the judgment rendered by the
learned Co-ordinate Bench of this Court in Cr. Misc. No. 52792



of 2019, the aforesaid appeal was not found maintainable and as such the present criminal miscellaneous application has been filed with a prayer for grant of regular bail to the petitioner in connection with Rail Muzaffarpur/Rail P.S. Case No. 29 of 2021 (GR No. 53 of 2021), for the offences punishable under Sections 366(A) of the Indian Penal Code, under Section 4/8 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The prosecution case is based on a written report filed by the informant alleging therein that the minor daughter of the informant has been abducted by the petitioner with intention to marry.

Learned counsel appearing on behalf of the petitioner submits that admittedly the petitioner and victim girl were known to each other and in fact they were neighbour, and they had love affair between them and as such they voluntarily left the house and solemnized marriage and thereafter started living as a husband and wife. He further submits that the statement of the victim girl was also recorded under Section 164 of the Cr.P.C., wherein she categorically stated that she voluntarily left her house without any enticement made by the petitioner and



further solemnized marriage with the petitioner and started living as husband and wife. He also submits that no allegation of any force and enticement has been made by informant. He next drawn the attention of this court towards the medical report, which suggests the age of the victim girl is about 16 to 17 years and no external or internal injuries have been found over the body of the victim girl.

Learned counsel for the informant by filing vakalatnama is present before this court and submits that the matter has already been compromised and the victim girl and her parents do not want to proceed any further in the matter.

Regard being had to the submissions made on behalf of the parties and considering the fact that the age of the victim has been assessed by the learned court below as 12 years and the petitioner had established physical relationship with her, this court is not persuaded to enlarge the petitioner on bail.

It is needless to say that consent of a minor is no consent in the eye of law that too when the accused is quite adult major aged about 32 years.

In view of the aforesaid facts, the prayer for bail of the petitioner is hereby rejected. However, the petitioner would be at liberty to renew his prayer for bail after examination of the



victim and her parents before the learned court below.

With the aforesaid liberty, the present bail application
stands dismissed.

(Harish Kumar, J)

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