

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1343 of 2022

Arising Out of PS. Case No.-650 Year-2020 Thana- SASARAM NAGAR District- Rohtas

Rakesh Paswan, Son Of Munmun Paswan @ Sadhu Paswan Resident Of
Village- Niw, P.S- Shivsagar (BADDI O.P), Dist- Rohtas At Sasaram
... .. Petitioner/S

Versus

The State Of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh
Ms. Riya Singh
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 24-05-2022 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, 366(A)/ 34 of the Indian Penal Code. The learned counsel submits that the learned Court below took cognizance under Sections 363, 366(A) and 34 of the I.P.C. read with Section 8 of the POCSO Act.

The learned counsel for the petitioner submits that the petitioner is in custody since 11.02.2021, he is a person with clean antecedent and charge-sheet has been submitted in this case.

The learned counsel for the petitioner submits that the informant alleges that his minor daughter aged about 16 years was kidnapped by the petitioner on 03.10.2020. Further alleges that he is being threatened that if a police case is instituted, his daughter would be killed.



The learned counsel for the petitioner submits that the date of occurrence is 03.10.2020 and the F.I.R. was instituted on 05.10.2020. It is next submitted that the victim returned and her statement was recorded under Section 164 of the Cr.P.C. wherein she has not supported the prosecution case and has also stated that she, on her own volition, had accompanied the petitioner to Varanasi and thereafter, to Gujarat and the petitioner did not commit any act which belittled her.

It is next submitted that the victim also stated that since he had not done anything wrong, as such, she refused her medical examination. The learned counsel thus submits that even if the victim is a minor, then also she is aged about 16 years and thus, was able to understand the consequences of her action and since the victim has not supported the prosecution case and has stated that she, on her own volition, had accompanied the petitioner, as such, no offence is made out.

The learned counsel further submits that it absolutely does not stand to reason that as to why the learned Court below has not recorded in its order rejecting the bail application of the petitioner, the statement of the victim recorded under Section 164 of the Cr.P.C. It is next submitted that if the learned Court below would have recorded the statement of the victim made



under Section 164 of the Cr.P.C., then it would have been easier for the Court to arrive at a considered conclusion.

Learned A.P.P. opposes the bail application.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in this case and the victim has not supported the prosecution case in her statement recorded under Section 164 of the Cr.P.C., the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Sasaram (T) P. S. Case No.650 of 2020.

However, the petitioner shall be released only if the learned Court below after perusing the statement of the victim recorded under Section 164 of the Cr.P.C. comes to a conclusion that the victim has not supported the prosecution case and as stated what has been recorded in the present order as aforesaid.

The application stands disposed of.

(Satyavrat Verma, J)

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