

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(BEFORE RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.920 of 2022**

Arising Out of PS. Case No.-45 Year-2019 Thana- KAMTAUL District- Darbhanga

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MOHAN KUMAR, Son of Seni Das @ Sanehi Das, Resident of Village -
Paunad, P.S. - Kamtaul, District - Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Advocate

For the Opposite Party/s: Mr.Mithlesh Kumar Khare, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 20-05-2022 Learned counsel for the petitioner undertakes to re-

move the defects as pointed out by the Stamp Reporter within

two weeks after start of normal functioning of this Court.

Heard learned counsel for the petitioner and Mr. Mith-
lesh Kumar Khare, learned APP for the State.

The petitioner in the present is seeking regular bail in
connection with Kamtaul P.S. Case No. 45 of 2019 registered
for the offences punishable under Sections 363, 366(A) of the
Indian Penal Code. The petitioner is in custody since
27.09.2021. He has no criminal antecedent.

As per the prosecution story, the daughter of the infor-
mant aged about 15 years had gone to meet the call of nature
during the early morning of 13.03.2020 but she did not return



home whereafter the informant started searching his daughter and met one Seni Das who is father of the petitioner. The informant claims that he informed to said Seni Das that his minor daughter has been kidnapped by your son whereafter Seni Das has given mobile number of his son but the said mobile was coming switched off.

Learned counsel for the petitioner submits that in fact the petitioner and the daughter of the informant had fallen in love with each other and as they belong to two different religious community, the people did not like it. The victim girl came on her own and she having attained the age of puberty insisted for marriage whereafter the petitioner and the victim girl have married in the year 2019 itself and they have got one child aged about one year and nine months.

Learned counsel submits that the victim girl belong to Muslim community and she had attained the age of puberty, according to her customs she could have married. It is submitted that in her statement under Sections 161 and 164 Cr.P.C. she has categorically stated that she had fallen in love with this petitioner and has solemnized marriage with him.

It is further pointed out that the petitioner and the victim girl got a child also and they should be allowed to live con-



jugal life happily and considering the present condition no fruitful purpose would be served by putting the petitioner behind the bars.

It is lastly submitted that the F.I.R. itself lodged after three days when the informant failed in pressurizing his daughter to come out of the marriage.

Mr. Mithlesh Kumar Khare, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but considering the peculiar nature of the case, the fact that both have got a child aged about one year and nine months and they were living together since the year 2019 and in connection with this case the petitioner has remained in custody since 29.07.2021, his further incarceration in custody is only likely to cause hardship to his wife and minor child, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, POCSO Act, Darbhanga in connection with Kamtaul P.S. Case No. 45 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage



it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court web-site under the heading 'Judicial Orders Passed During The Pandemic Period'.

