

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7188 of 2023

Arising Out of PS. Case No.-200 Year-2022 Thana- PALANWA District- East Champaran

Suraj Kumar Singh @ Suraj Singh Gautam @ Suraj Gautam Son of Budhan Singh @ Tripurari Singh R/v- Laukariya, P.S.- Palanwa, District- East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mr.Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 17-05-2023 Heard learned counsel for the petitioner and learned APP for the State.

2. In the present case, the petitioner seeks bail in connection with Palanwa P.S. Case No. 200 of 2022 registered on 08.09.2022 for the alleged offences under Sections 363A, 366A/34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.

3. As per prosecution case, the informant submitted a written report to the police for kidnapping of her minor daughter, aged about 12 years, by the petitioner and his father with wrongful intention of selling her in Nepal. The girl was rescued by the Nepal police at the border and informant was threatened by the younger brother of the petitioner not to inform



the police and others.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has not committed any offence and has been falsely implicated in this case. Learned counsel further submits that from the statement of the victim girl recorded by the Nepal police, it is apparent that she went on her own with the petitioner and there has been no sexual activity between them so the case of kidnapping is falsified by the statement. Further more, the date of occurrence is 22.08.2022 but the FIR has been registered on 08.09.2022, that too, on the written report of the informant. The delay of 15 days is without any plausible explanation. Thereafter, the statement of the victim girl was recorded on 14.10.2022 under Section 164 of Cr.P.C. which shows this is the tutored version of the statement of the victim and said statement could not be believed. Moreover, it is highly improbable that father and son would commit such crime together. Learned counsel further submits that from the statement of the independent witnesses examined by the police during investigation it appears from paragraph 112, 113, 114, 115, 116 that the victim went on her own with the petitioner. If there is no sexual wrongful act on the part of the petitioner, there could be no application of provisions of POCSO Act. The



petitioner is in custody since 25.11.2022 and charge sheet has been submitted. The petitioner has got no criminal history.

5. Learned APP and learned counsel appearing for the informant vehemently oppose the submissions made on behalf of the petitioner. Learned counsel for the informant submits that the victim has specifically named this petitioner along with his father would made her unconscious and took her to the Nepal border.

6. Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the probability of false implication and further considering the period of custody of the petitioner and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge -cum- Special Judge, POCSO Act, East Champaran at Motihari/concerned court in connection with Palanwa P.S. Case No. 200 of 2022, 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 bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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