

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21104 of 2022

Arising Out of PS. Case No.-595 Year-2018 Thana- SHERGHATI District- Gaya

JITENDRA PASWAN @ JITENDRA KUMAR S/o Shri Paswan Resident of
Village- Nawada, P.S.- Sherghati, Distt- Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Mahendra Thakur, Advocate
	:	Mr. Vijay Kumar, Advocate
For the Opposite Party/s	:	Mr.Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 04-01-2023 Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner seeks regular bail in connection with Sherghati PS case no. 595 of 2018 instituted for the offences punishable under Sections 366, 366(A), 376/34 of the Indian Penal Code and Section 4 of POCSO Act.

The allegation is regarding the petitioner having taken away the daughter of the informant to Delhi and then to Panipat, where the petitioner had established physical relationship with the daughter of the informant.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and he is languishing in custody since 10.08.2021. The learned counsel for the



petitioner has further submitted that the medical report of the victim girl dated 29.12.2018 would show that the age of the victim has been found to be in between 18 to 19 years and it has been concluded that no signs of sexual intercourse have been found. It is thus submitted that the petitioner and the victim girl being major, were consenting parties and only after the victim girl had returned back to her home, she has filed the present case under the pressure of her parents although the fact is that she has voluntarily eloped with the petitioner and gone to Delhi and then to Panipat, from where she had subsequently returned back to her home, however, no alarm was raised by her at any point of time. It is also submitted that the petitioner undertakes to appear before the learned court below on each and every date, so fixed, in case, this Court deems it fit and proper to grant the privilege of bail to the petitioner.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and has submitted that the victim girl has corroborated the factum of the alleged occurrence in her statement made under Section 164 Cr.P.C. before the learned Magistrate, hence, no sympathy should be shown to the petitioner herein.

Having regard to the facts and circumstances of the



case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the materials available in the case diary, though it is true that the victim girl has supported the factum of the alleged occurrence having taken place, in her statement made under Section 164 Cr.P.C., but this Court cannot ignore the fact that the victim girl being an adult, had eloped with the petitioner voluntarily and thereafter, had gone to Delhi with the petitioner and then to Panipat, nonetheless, she had not raised any alarm at any moment of time, thus she was a consenting party to the alleged occurrence, hence, I deem it fit and appropriate to grant benefit of doubt to the petitioner for the purposes of admitting him to the privilege of bail, however, the petitioner shall appear before the learned court below on each and every date, so fixed in the on-going trial and any default in his appearance before the learned trial court shall result in cancellation of the bail being granted to the petitioner herein, automatically, and the petitioner would be liable to be taken into custody, forthwith.

Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount



each to the satisfaction of learned Exclusive Special Court
(POCSO) Act-cum-A.D.J. VII, Gaya in connection with
Sherghati PS case no. 595 of 2018.

(Mohit Kumar Shah, J)

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