

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23564 of 2022**

Arising Out of PS. Case No.-45 Year-2021 Thana- BALTHAR District- West Champaran

BHUTI ANSARI @ NUR ALAM ANSARI S/o Zakir Miya R/o Village
Shekh Tola, P.S.- Balthat Dist. West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dhannjay Kumar No. 2, Adv.
For the Opposite Party/s	:	Mr. Nirmal Kumar Sinha, APP
For the Informant	:	Mr. Mahtab Alam, Adv.

**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 Balthar P.S. Case No. 45 of 2021, registered for the offence punishable under Sections 363, 366(A)/34, 376 of the Indian Penal Code and Section 4 of the POCSO Act.

The case of the prosecution in brief, according to the informant, is that on 24.4.2021, she without informing her parents had called the petitioner, whom she met in the market, whereafter they had gone to Jammu and Kashmir and solemnized marriage in a mosque, however,



subsequently, she heard that her-in-laws have been implicated in a criminal case, whereupon the petitioner and the victim girl had gone to Bettiah where the victim girl was apprehended by the police.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case, he is having a clean antecedent and he is languishing in custody since 4.9.2021. The learned counsel for the petitioner has submitted, by referring to the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate that the victim girl has stated that she had voluntarily, on her own volition, fled with the petitioner and gone to Kashmir where she had solemnized marriage with the petitioner and is also bearing a child of the petitioner in her womb. It is also submitted, by referring to the medical examination /age report that the victim girl has been found to be in between 17-18 of years, hence, it is submitted that the petitioner



is having no complicity in the matter.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials on record as also considering the materials available in the case diary, apart from taking into account the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate, this Court finds that the occurrence in question has taken place with the consent of both the parties i.e. the petitioner and the victim girl, apart from the fact that the age of the victim girl has been determined in between 17-18 years, hence, this Court deems it fit and proper to grant benefit of doubt to the petitioner for the purposes of admitting the petitioner to the privilege of bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail



bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. 7th cum Special Judge (POCSO), West Champaran at Bettiah in connection with Balthar P.S. Case No. 45 of 2021.

(Mohit Kumar Shah, J)

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