

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45531 of 2022

Arising Out of PS. Case No.-127 Year-2019 Thana- BARIYARPUR District- Munger

ABHINASH RAJ @ CHHOTU KUMAR @ CHHOTU Son of Dipan Mandal
Resident of Village - Manjhli, P.s.- Sultanganj, Distt.- Munger.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Deep Nishi

For the Opposite Party/s : Mr.Abhay Kumar Roy

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 09-01-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with Bariyarpur P.S. Case No. 127/2019, registered for the offence punishable under Sections 366A, 34 of the Indian Penal Code and Section 8 of the POCSO Act.

The allegation is regarding the petitioner having kidnapped the victim girl, who is stated to be aged about 14 years.

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 19.11.2019. The learned counsel for the petitioner has referred to the statement made by the victim girl under Section 164 Cr.P.C. before the learned Magistrate to submit that though the petitioner had taken away the victim girl on a motorcycle to Jammui and then, by train to Ranchi whereafter, both the victim girl and the petitioner started living at Ranchi, however the victim girl had neither ever raised any alarm nor made any complaint regarding the petitioner having forcibly taken her away and moreover, the age of the victim girl has been recorded in her statement made under Section 164 Cr.P.C. as 18 years, therefore, the act in question is purely consensual.

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

I have heard the learned counsel for the parties and gone through the status report furnished by the learned Additional Sessions Judge-VI-cum-Exclusive Special Judge POCSO Act,



Munger, dated 15.12.2021, as also the statement of the victim girl made under Section 164 Cr.P.C. from which it is apparent that the age of the victim girl has been recorded as 18 years and moreover, she has admitted to have stayed with the petitioner at Ranchi for eight days but there is no whisper about her having ever raised any alarm, hence, though I am inclined to grant bail to the petitioner, considering the period of incarceration and the nature of allegations levelled against the petitioner, however, considering the report of the learned trial court to the effect that the defence has not cross-examined the P.Ws. 1, 2 and 3, inspite of sufficient opportunities given by the Court, leading to the conclusion that the defence is delaying the trial, I deem it fit and proper to direct that in case, the defence indulges in any delaying tactics, it impedes the ongoing trial and the petitioner does not appear on each and every date so fixed by the learned trial court in the ongoing trial, the present privilege of bail,



being granted to the petitioner, shall stand cancelled automatically and he shall be taken into custody, forthwith.

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 Special Judge, POCSO, Munger in connection with Bariyarpur P.S. Case No. 127 of 2019, subject to the aforesaid conditions.

(Mohit Kumar Shah, J)

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