

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29578 of 2023

Arising Out of PS. Case No.-78 Year-2022 Thana- SARAI District- Vaishali

RAJAN KUMAR SON OF MOTILAL MAHTO RESIDENT OF VILLAGE
AKBAR MALAHI, P.S. - SARAI, DISTRICT - VAISHALI AT HAJIPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar Singh, Advocate Mr. Kamlesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Anil Kumar Singh No.1, APP
For the Informant	:	Mr. Anuj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 10-08-2023 Heard learned counsel appearing on behalf
of the parties.

2. The petitioner seeks bail in connection with
Sarai P.S. Case No.78 of 2022 registered for the offence under
Sections 366(a) and 376 of the Indian Penal Code, Section 4 of
POCSO Act and Section 8 of the Child Marriage Act.

3. The accused/petitioner is named in the F.I.R.
and is in custody since 12.12.2022.

4. The allegation against the petitioner is to
kidnap the minor daughter of the informant, aged about 15
years, for the purpose of illicit intercourse/marriage.

5. Learned counsel appearing on behalf of the
petitioner submitted that as love affairs of petitioner with victim



was not accepted by her family members, including the informant, the present false implication was raised. It is submitted that after recovery of victim, her statement was recorded under Section 164 of the Cr.P.C., where, she categorically denied allegation of kidnapping and sexual assault, rather she stated that out of her sweet will, she solemnized marriage with this petitioner and went up to Delhi and Sonipat. It is submitted that victim, medically appears to be major, in terms of radiological examination, where, her age assessed as 18 to 20 years. It is submitted that petitioner was also found involved in one similar nature of case bearing Sarai P.S. Case No. 140 of 2018, which was disposed of from the court of learned ADJ-Ist, Vaishali, on the basis of compromise, where, no conviction was awarded to this petitioner. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer of bail, submitted that as per FIR, victim appears minor and her age as suggested from radiological examination, is not appearing convincing. It is submitted that as victim



appears minor, her consent has no value in law. It is submitted that in another medical report, the age of victim appears 14-16 years.

7. Considering the facts and circumstances as mentioned above and by taking note of the fact as victim negate allegation of kidnapping and sexual assault against this petitioner, through her, statement recorded under Section 164 of the Cr.P.C., rather, she solemnized her marriage out of own sweet will with this petitioner coupled with the fact that charge-sheet has already submitted, where, petitioner is in custody since 12.12.2022, let the petitioner, above named, is directed to be released on bail in connection with Sarai P.S. Case No.78 of 2022, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO, Vaishali at Hajipur/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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