

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29684 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- MAHILA P.S BAGHA District- West
Champaran

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Mahanth Sharma, aged about 28 years, (Male), Son of Janak Sharma Resident of Village -
Sisahi, P.s.- Narkatiganj, (Shikarpur), Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra

For the Opposite Party/s : Mr. Satyendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 04-01-2023 Heard learned counsel for the petitioner and the learned APP
for the State.

The petitioner seeks bail in connection with Bagaha Mahila P.S. Case No. 56 of 2021 registered for the offence punishable under Sections 363, 366(A), 379/34 of the Indian Penal Code and Section-8 of the Protection of Children From Sexual Offences Act (for brevity 'POCSO' Act).

Learned counsel for the petitioner submits that informant has alleged that his minor daughter, aged about 12 (twelve) years, has been allured for the purposes of marriage by the petitioner along with co-accused Lalchand Sharma and Ramdhani Sharma. It is further submitted that falsity of the allegation is obvious from the fact that the First Information Report (for brevity 'F.I.R.') alleges the minor daughter to be missing since 16.07.2021, whereas F.I.R. has been instituted on 04.08.2021. The victim statement recorded under Section 161 as well as 164 of the Code of Criminal Procedure (for brevity 'Cr.P.C.') does not caste any criminal liability on the petitioner. She has stated about going with the petitioner on her own volition, and there in not even a whisper of any kind of sexual exploitation. The age claimed by the victim in her statement is also around 15 (fifteen) years.



The petitioner has no antecedent and is in custody since 05.02.2022.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, the nature of allegations, delay in lodging of the F.I.R. and the victim's statement, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-7th-cum-Special Judge POCSO, Bettiah, District- West Champaran, in connection with Bagaha Mahila P.S. Case No. 56 of 2021, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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