

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31335 of 2023

Arising Out of PS. Case No.-638 Year-2022 Thana- CHANPATIA District- West Champaran

Vivek Kumar Pandey Son Of Sugriv Pandey Resident Of Village- Khardul
Mahna, Ps- Chanpatiya, Distt- West Champaran Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2, Advocate
For the Opposite Party/s : Mr.Ajay Kumar Jha, APP
For the informant : Mrs. Rashmi Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-06-2023 Heard Mr. Dhannjay Kumar No.2, learned counsel for

the petitioner, Mrs. Rashmi Jha, learned counsel for the

informant and Mr. Ajay Kumar Jha, learned APP for the State.

The petitioner is in custody since 3.4.2023 in
connection with Chanpatiya P.S. Case No. 638 of 2022 for the
offence punishable under Sections 366(A)/34 of the I.P.C. and
section 12/17 of POCSO Act lodged on 19.11.2022 by the
informant Md. Haroon.

The prosecution story, in brief, is that on 17.11.2022
at about 7:30 both the minor daughters of the informant (victim)
aged about 16 years and 14 years went to attend the call of
nature in Sareh but did not return. While the informant was
searching his girls, he learnt that all the FIR named accused
persons including the petitioner abducted the girls either for the
purpose of marriage or to put them in the field of prostitution.



When the informant went to the house of the accused persons, the parents assured him to return the victim girls but later refused.

Learned counsel for the petitioner straight away took this Court to the deposition of the victim girl Samsida Khatoon who has given her age as 18 years and has narrated that she was in love with the petitioner herein and as this was seen by her family members, she was beaten. Thereafter, on the fateful day, she disappeared along with her sister. Later, they went to Delhi and remained there for four months as a couple and at the time of deposition, was pregnant by three months.

Learned counsel for the petitioner submits that he was in love with the girl and is living with her and out of the said wedlock, a child is in her womb and will soon see the world.

Mrs. Rashmi Jha, learned counsel for the informant on the other hand has taken this Court to the statement of other victim girl 'x' who is sister of the Samsida Khatoon who has given entirely different version.

However, from the statement recorded under section 164 of the Cr.P.C. it shows that the main allegation has been made against Saif Ali as also the brother of the present petitioner, Vivek Kumar Pandey of committing rape.



Although, the allegation of kidnapping has been attributed to this petitioner also and thus learned counsel for the informant submits that the petitioner cannot exonerate himself as his name has also come in 164 Cr.P.C statement of victim girl 'x'.

Learned APP opposes the submission put forward by the learned counsel for the informant.

This Court has gone through the statement made by both the sisters. So far as the victim girl 'x' is concerned, the main allegation is against Saif Ali and Vivek Kumar Pandey, the brother of the petitioner. Although, some passing reference is also against this petitioner of marrying her sister, in view of the statement made by her sister Samsida Khatoon in which she has stated to be in relationship with the petitioner herein and at the time of deposition in March, 2023 was pregnant by three months and further the petitioner do not have criminal antecedent and is in custody since 3.4.2023 (as stated in para-11 of the bail petition), this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge,



POCSO cum A.D.J-VI, West Champaran, Bettiah, in connection with Chanpatiya P.S. Case No. 638 of 2022 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the application is allowed.

(Rajiv Roy, J)

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