

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31886 of 2023

Arising Out of PS. Case No.-269 Year-2021 Thana- KOTWA District- East Champaran

Sandeep Kumar Son Of Bhuneshwar Paswan @ Bhunesh Paswan Resident Of
Village - Badaharva, P.S. - Kotwa, Distt. - East Champaran.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhurendra Kumar, Advocate

For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 13-07-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Kotwa
P.S. Case No. 269 of 2021 registered for the offence under
Section 366(A) of the Indian Penal Code and Section 8/12 of
POCSO Act.

The accused/petitioner is not named in the F.I.R. and
is in custody since 17.03.2023.

The allegation against the petitioner is to kidnap the
minor daughter of informant aged about 13 years alongwith
unknown co-accused persons for the purpose of illicit
intercourse/marriage.



Learned counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated with present case out of previous enmities. It is further submitted that there is material contradictions in statement of victim recorded under Section 161 of Cr.P.C. *qua* under Section 164 of Cr.P.C., whereas in earlier statement under Section 161 of Cr.P.C., victim stated that she was rescued by villagers, whereas, while recording her statement under Section 164 of Cr.P.C., it is stated that her father on sudden arrived at the place of occurrence. It is also submitted that from the statement of victim recorded under Section 164 of Cr.P.C. it cannot be said that any sexual assault was made by this petitioner. It is also pointed out that medical examination of this victim was conducted immediately after her recovery on 04.11.2021, where doctor clearly opined that no sign of physical or sexual assault was found upon the victim, particularly in the background of her statement recorded under Section 164 of Cr.P.C. that she received injuries on her right hand and legs. It is submitted that before making statement under Section 164 of Cr.P.C., victim was with her father and as such the probabilities of tutoring cannot be ruled out. While concluding the argument, it is submitted that petitioner is a man of clean antecedent, and moreover, investigation of this case is



completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, opposes the prayer of bail.

Considering the facts and circumstances as mentioned above and by taking note of contradictions of statement of victim recorded under Section 161 of Cr.P.C. *qua* under Section 164 of Cr.P.C., where allegation of sexual assault is not available against this petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 17.03.2023, accordingly, petitioner above named, is directed to be released on bail in connection with Kotwa P.S. Case No. 269 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-Cum-Special Judge, POCSO, East Champaran, Motihari/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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