

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31360 of 2022

Arising Out of PS. Case No.-62 Year-2022 Thana- PARBATTI District- Khagaria

Md. Aaihsan @ Md. Ehsan @ Md. Ehsan Alam @ Gore Son of Tahir @ Md. Tahir Resident of Village - Islampur, Ward No. 3, Police Station- Maraiya O.P. (Parbatta), District - Khagaria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Durga Nand Jha, Adv. with
Md. Nurul Hoda, Adv.

For the Opposite Party/s : Mr. Anant Kumar 1, APP

For the Informant : Mr. Ranjit Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 01-02-2023 Heard Mr. Durga Nand Jha, learned counsel duly assisted by Md. Nurul Hoda, learned counsel for the petitioner, Mr. Ranjit Kumar Singh, learned counsel for the informant and Mr. Anant Kumar 1, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with Parbatta (Maraiya) P.S. Case No. 62 of 2022 registered for the offence punishable under Section 366A read with 34 of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that on 31.01.2022 at about 03:00 P.M., his daughter 'X' went to the shop to purchase some household articles and when she did not return, a search was made, however, she could not be traced out. It has further been



alleged that the informant came to know that the petitioner and the other FIR named accused persons abducted her for the purposes of marriage.

Learned counsel appearing on behalf of the petitioner submits that the petitioner and the victim had been residing in the same village and this is a case of love affair which resulted into *Nikah* duly solemnized on 04.02.2022. The Certificate of *Nikah* has been brought on record by way of Annexure-4 to the bail application, from perusal thereof, it would appear that the age of the victim has been mentioned as 20 years. He next submits that the statement of the victim was also recorded under Section 164 of the Cr.PC., wherein she categorically stated her age as 19 years and, initially, she has candidly stated that she voluntarily left the house along with her friend and no allegation, as such, has been levelled, however, subsequently she stated that she remained with the petitioner for ten days. Learned counsel for the petitioner further submits that the victim girl was also examined by the Board of Doctors, wherein her age has been assessed as 17 to 18 years. He lastly submits that the petitioner is a man of having fair antecedent and is in custody since 13.02.2022 and, moreover, from the allegation, no case is made out under Section 366A of the Indian Penal Code



as the ingredient of inducement is not available.

On the other hand, learned counsel for the informant vehemently opposes the prayer for bail of the petitioner and submits that during the course of investigation, the school certificate of the victim has been placed on record by the investigating officer, wherein her age has been found to be 15 years and, as such, the consent of the victim has no value in the eyes of law. He further submits that there is specific allegation made by the victim in her statement recorded under Section 164 of the Cr.PC. that she remained with the petitioner for ten days and this petitioner has established physical relationship with her.

Learned counsel for the State also opposes the bail application and submits that ample materials have come during the course of investigation, suggesting the complicity of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the allegations and the materials available on record, *prima facie*, it appears that there is no allegation of any forceful abduction levelled against the petitioner and, moreover, the victim was examined by the Board of Doctors, who assessed her age as 17 to 18 years coupled with the fact that the parties have solemnized *Nikah*, though the



statement is contested by the informant, apart from the fact that there is no allegation of any inducement against the petitioner and he is in custody for about one year having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 1st, Khagaria in connection with Parbatta (Maraiya) P.S. Case No. 62 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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