

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34289 of 2023

Arising Out of PS. Case No.-126 Year-2022 Thana- CHIRAIYA District- East Champaran

BHOLA SAH Son of Late Vilat Sah Resident of village - Parewa, P.S. -
Shikarganj, Distt. - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shanti Bhushan Singh

For the Opposite Party/s : Mrs.Renu Kumari

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 07-07-2023 Learned counsel for the petitioner is permitted to
make necessary correction in para 1 of the bail petition during
course of the day.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Chiraiya
P.S. Case No. 126/2022 registered for the offences punishable
under Sections 363, 366, 366(A)/34 of the Indian Penal Code.

As per prosecution case, petitioner and others have
kidnapped the informant's minor niece (Bhagani).

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case due to dirty village politics. Occurrence took place on
11.02.2022 and FIR lodged on 11.03.2022 after delay of one
month and no plausible explanation has been given for delay in



lodging FIR. He further submits that statement of victim recorded under Section 164 Cr.P.C. has been made under the pressure of guardian. Learned counsel for the petitioner further submits that the matriculation certificate of victim indicates that the date of birth is 01.01.2004 on the date of occurrence and the age of victim is considered to be near about 19 years and in that situation, no case of POCSO Act is made out against the petitioner. The petitioner is languishing in custody since 17.06.2022 and bears no criminal antecedent. No incriminating article has been recovered from the conscious possession of the petitioner. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner and submits that the statement of victim recorded under Section 164 Cr.P.C. has corroborated the prosecution story.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and keeping in view clean antecedent of petitioner and



also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned VIth Additional Sessions Judge cum Special Judge, POCSO, Motihari, East Champaran in connection with POCSO Trial No. 71/2022 arising out of Chiraiya P.S. Case No. 126/2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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