

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36051 of 2023

Arising Out of PS. Case No.-45 Year-2023 Thana- RAXAUL District- East Champaran

ABHISHEK KUMAR BHARATI @ SANU @ SABU SON OF SANJAY
BHARATI RESIDENT OF VILLAGE- TUMARIYA TILA WARD NO. 02,
PS- RAXAUL (HARIYA OP), DISTT- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Rathore@ Kundan Kumar, Advocate
For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 04-09-2023

Heard the parties.

2. The petitioner is an accused in connection with Raxaul (Haraiya O.P.) P.S. Case No. 45 of 2023 registered for the offences under section 366(A) of the Indian Penal Code and sections 8 and 12 of the POCSO Act lodged on 25.01.2023 by the informant, Akhilesh Pandey.

3. As per the prosecution story, the allegation is that the informant's victim daughter went for tuition but disappeared and the informant has apprehension that this petitioner has taken her away for the purpose of marriage. Accordingly, the FIR.

4. Subsequently, the victim girl returned and in her statement under section 164 of the Cr.P.C. alleged that this petitioner made her unconscious, took her away to Jaipur, committed rape.



5. It is the case of the petitioner that she was in relationship with him, is a major and a Medical Board had found her to be between 18 to 19 years of age. The further submission is that it is ironical that she travelled from Raxaul to Patna to Jaipur in an unconscious state and as per her own statement, when she once gained consciousness, she found herself in a Patna bound bus and had every occasion to inform the passengers that she has been kidnapped.

6. He has further taken this Court to Annexure 2, the photographs to show that they were in relationship.

7. The last submission is that he is a student, 20 years of age, is in custody since 21.02.2023 (as stated in paragraph 9 of the bail application) and do not have criminal antecedent. He further undertakes not to have any connection either with a girl and/or her family members.

8. Learned APP for the State, on the other hand, opposes the prayer for bail stating that the girl upon return has narrated her ordeal and the petitioner is responsible for that.

9. Considering the fact that the age of the victim girl has been found to be between 18 to 19 years, charge sheet stands submitted, the petitioner has remained in custody since 21.02.2023, do not have criminal and will be diligently



appearing in trial, it would be appropriate that to save him from hardened criminals in the jail till the pendency of trial, he is released on bail.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Court of 7th Additional District and Sessions-cum-Special Judge, POCSO, Motihari, East Champaran in connection with Raxaul (Haraiya O.P.) P.S. Case No. 45 of 2023, 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 his *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 his 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 the bail bonds.

11. With the aforesaid observations, the bail
application is allowed.

(Rajiv Roy, J)

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