

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39161 of 2023

Arising Out of PS. Case No.-512 Year-2022 Thana- KONCH District- Gaya

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BHOLA KUMAR SON OF HIRA LAL YADAV RESIDENT OF VILLAGE
DHIBRA, P.O - DHIBRA, P.S - KONCH, DISTRICT - GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Das

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 04-08-2023 Heard the parties.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Sections 366A, 34 of the Indian Penal Code.

3. The allegation against the petitioner is that he abducted the daughter of the informant with an intention of marriage with her.

4. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and have committed no offence. He has been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. There is no specific overt act against the petitioner. Petitioner has no criminal antecedent. He submits that



earlier the bail application of the petitioner was rejected by the learned Court below on the basis that the victim is a minor. The statement of the victim was recorded u/s 164 of Cr.PC in which she has not supported the prosecution case. He submits that the medical board has opined the age of the victim as 19 years. He relied upon the judgment of **Hon'ble Apex Court in P. Yuvaprakash vs. State Rep. by Inspector of Police 2023 SCC Online SC 846**. He submits that in the aforesaid Hon'ble Apex Court judgment it is stated that the age of victim determined has to be determined by the concerned Court by considering the following documents:

(i) by the date of birth certificate from the school or the matriculation or equivalent certificate from the concerned examination board, if available, and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.

5. He further submits that in the aforesaid judgment, only a transfer certificate and not the date of birth certificate or matriculation or equivalent certificate was considered.



6. Learned APP for the State opposed the prayer for anticipatory bail.

7. Having regard to the facts and circumstances of the case as well as considering the judgment of Hon'ble Apex Court, let the above named petitioner, be released on bail, in the event of his/her arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Konch P.S. Case No.512 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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