

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41329 of 2023

Arising Out of PS. Case No.-108 Year-2022 Thana- MAINATAND District- West Champaran

BHOLA MAHTO @ BHOLA MAHATO Son of Late Jodha Mahto Resident
of village - Ramnagri, P.S. - Mainatand, Distt. - West Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Chandra, Advocate

For the Opposite Party/s : Mr. Md. Ataur Rahman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 31-07-2023 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the informant.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 363 and
366(A) of the Indian Penal Code and Section 8 of the POCSO
Act.

3. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent.

4. The informant alleges that holder of Mobile No.
7070106125 and 9955867413 kidnapped his minor daughter
aged about 15 years.

5. Learned counsel for the petitioner submits that
petitioner has been falsely implicated in the present case and the
FIR is not against any named accused persons nor the mobile
number as detailed in the FIR belongs to the petitioner. It is



further submitted that the victim was recovered from the house of Pradhuman Kumar on 21.10.2022 and her statement was recorded under Section 164 Cr.P.C wherein she stated that Vikash, Satrudhan, Utsav and Praduman and the petitioner kidnapped her and took her to Delhi in an unconscious state and committed wrong. It is next submitted that it absolutely does not stand to reason that the victim all throughout in unconscious state was taken to Delhi from West Champaran but without being noticed by anyone. It is also submitted that on 21.10.2022 the statement of the victim was also recorded under Section 161 Cr.P.C. wherein her statement when compared to her statement recorded under Section 164 Cr.P.C. it would manifest that the same are dichotomic for the reason that in her statement recorded under Section 164 Cr.P.C. the victim stated that she was kidnapped by the accused persons including the petitioner but did not even whisper that the petitioner was also present at the place of occurrence in Delhi. It is further submitted that petitioner is 58 years old and has remained a person with clean antecedent and all of a sudden has been made a criminal by institution of the present FIR. It is next submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence and will present himself as and when



required by the investigating officer of the case.

6. Learned A.P.P. for the State and learned counsel for the informant opposed the prayer for anticipatory bail of the petitioner but are not in a position to rebut the submission of the learned counsel for the petitioner that the statements of the victim recorded under Sections 164 and 161 of the Cr.P.C. differ and that she was taken in an unconscious state to Delhi from West Champaran without being noticed by anyone.

7. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten 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 Mainatand P.S. Case No. 108 of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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