

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43313 of 2022

Arising Out of PS. Case No.-174 Year-2022 Thana- GRIYAK District- Nalanda

Chandan Prasad @ Chandan Prasad Akela Son of Bindeshwar Sao Akela
Resident of Village - Chorsua, Police Station- Pawapuri (Giriyak), District -
Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh, Advocate

For the Opposite Party/s : Mr.Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 18-01-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect(s) as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with POCSO Case No. 39 of 2022 arising out of
Giriyak P.S. Case No. 174 of 2022 registered for the alleged
offences under Sections 363 and 366(A) of the Indian Penal
Code and Section 8 of the POCSO Act.

As per prosecution case, the daughter and the niece of
the informant went missing. Later on, it came to the notice that
the petitioner was the person who took away the minor daughter
of the informant.



Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case merely on suspicion. The petitioner and the victim girl were having love affair and they fled away from their house in order to solemnize marriage. The statement of the victim girl was recorded under Section 164 Cr.P.C. wherein she disclosed this fact. When the statement of her mother was recorded during investigation by the police, she has also stated about continuing love affair between her daughter and this petitioner. Medical report also does not show any sign of recent sexual intercourse. Learned counsel further submits that victim girl under pressure of her parents retracted from her statement recorded under Section 161 Cr.P.C. and gave altogether different statements before the learned Judicial Magistrate U/S 164 Cr.P.C. that she was forcibly taken away by the petitioner who committed rape with her on a number of occasions. But her story is not believable as she was recovered from a populated locality of Ekangarsarai and it is not believable that she was kept for 12 days and she did not raise any alarm and did not even raise any hue and cry though, as she has stated, the petitioner used to leave her alone in the room. Learned counsel further submits that victim girl is stated to be a student of intermediate and



appears to be mature enough to know the consequences of her act. The petitioner is in custody since 26.04.2022 and charge sheet has been submitted. The petitioner has got no criminal history.

Learned APP opposes the prayer for bail submitting that victim girl was a minor and she has made serious allegation against the petitioner recorded under Section 164 Cr.P.C.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the possibility of false implication of the petitioner and improbability of circumstances and further considering the period of custody of the petitioner along with the submission of charge-sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned VIIth Additional Sessions Judge-cum-Special Court POCSO, Biharsharif, Nalanda in connection with POCSO Case No. 39 of 2022 arising out of Giriyak P.S. Case No. 174 of 2022, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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