

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45002 of 2023

Arising Out of PS. Case No.-335 Year-2021 Thana- NAUTAN District- West Champaran

Mohammad Irshad @ Mohammad Irshad Alam @ Mohammad Irshad Maulvi
@ Irshad Maulvi son of Mohammad Ali Akhtar R/o Village- Chhitahi
Hanuman Nagar Sarai Gadh P.S- Bhaptiyahi Dist- Supaul... .. Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai,Advocate

For the Opposite Party/s : Mrs.Asha Devi,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 14-09-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since 11.05.2023 in connection with Nautan P.S. Case No. 335 of 2021, F.I.R. dated 05.09.2021 registered for the offence punishable under Sections 366(A)/34 of IPC and Section 8 of POCSO Act.

3. The prosecution case, in short, is that on 04.09.2021, accused persons including the petitioner are alleged to have kidnapped the minor daughter (the victim) of the informant for the purpose of marriage.

4. Learned counsel appearing for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has



not committed any offence as alleged in the FIR and the statement of the victim under Section 164 Cr.P.C. was recorded in which she has categorically stated that she has performed the marriage with the petitioner. Learned counsel for the petitioner has brought on the record the Nikahnama dated 09.08.2021 by way of supplementary affidavit which suggests that the petitioner has performed the marriage with the victim and he has also brought on the record an affidavit executed between the parties which suggests that the victim is residing in the house of the petitioner alongwith the children and the police, after investigation, submitted chargesheet against the petitioner and the petitioner is in custody since 11.05.2023.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the victim was minor at the time of occurrence.

6. Considering the aforesaid fact, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO, Bettiah, West Champaran in connection with Nautan P.S. Case No. 335 of 2021, with the following conditions:-



(I) One of the bailors should be the informant, namely, Zakir Hussain.

(II) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(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.

(IV) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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