

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45473 of 2023

Arising Out of PS. Case No.-174 Year-2023 Thana- BAGHA District- West Champaran

RAKESH KUMAR @ RAKESH KUMAR GUPTA @ RAKESH GUPTA
Son of Harihar Prasad Resident of village - Ward No.- 26, Ramdham Mandir,
P.S.- Bagaha, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Gupta

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 06-09-2023 Heard the learned counsel for the petitioner and the learned
A.P.P. for the State.

2. This is an application for grant of anticipatory bail in connection with Bagaha P.S. Case No. 174 of 2023, registered for the offence punishable under Sections 366(A), 34 of the Indian Penal Code and Sections 7, 8 of the POCSO Act.

3. The accused persons are alleged to have kidnapped the daughter of the informant when she had gone to the market to purchase some articles.

4. The learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner has further submitted that the petitioner is an accused in two other criminal



cases, but he is on bail in the said two cases. The learned counsel for the petitioner has fairly submitted that the main accused in the present case is the son of the petitioner, namely, Karan Kumar, who is alleged to have kidnapped the victim girl and forcibly, established physical relationship with her, however, the petitioner is not having any complicity, as would be apparent from the statement of the victim girl made under Sections 161 and 164 of the Cr.P.C., thus, it is submitted that the petitioner be granted the privilege of anticipatory bail.

5. Per contra, though the learned APP for the State has vehemently opposed the prayer for bail, but has submitted, by referring to the case diary of the present case that the statement of the victim girl under Section 164 Cr.P.C., made before the learned Magistrate would show that the kidnapping was carried out by the co-accused person, namely, Karan Kumar Gupta i.e. the son of the petitioner and he is stated to have established physical relationship with the victim girl, hence, in case, this Court so deems it fit and proper, it may grant benefit of doubt to the petitioner herein.

6. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner, taking into account the materials available on record



as also considering the fact that the main thrust of allegation is against the son of the petitioner, who has admittedly kidnapped the victim girl, as is prima facie apparent from the records of the case including the case diary and had also established physical relationship with the victim girl forcibly, apart from the fact that the petitioner has not been named to be having any role in the alleged occurrence by the victim girl as also he is having a clean antecedent, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

7. Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO cum Additional District Judge-VIIth, West Champaran at Bettiah in connection with Bagaha P.S. Case No. 174 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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