

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46221 of 2022

Arising Out of PS. Case No.-89 Year-2021 Thana- NAUTAN District- Siwan

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Lalu Bhar @ Lalu Rajbhar Son of Nata Bhar Resident of Village- Narayanpur
Chamar Toli, P.S.- Nautan, District- Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Adv.

For the Opposite Party/s : Mr. M.K. Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-02-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks' from today.

Heard Mr. Ajay Kumar Tiwary, learned counsel
appearing on behalf of the petitioner and Mr. M.K. Nirala,
learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody
in connection with POCSO Case No. 39 of 2021 giving rise to
the Nautan P.S. Case No. 89 of 2021 registered for the offence
punishable under Section 366A of the Indian Penal Code.

The prosecution case is based on a written report of
the informant alleging therein that in the night of 12.04.2021,
when his daughter "X" aged about 17 years went to attend the
call of nature, in the meantime, the petitioner enticing her took



away with him. It has further been alleged that wife of the petitioner told the informant on phone that the petitioner would sell his daughter.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that the occurrence took place on 12.04.2021, however, the FIR has been instituted on 29.04.2021. He further submits that later on, during the course of investigation, the victim was recovered and, initially her statement was recorded under Section 161 of the Cr.PC. wherein she has categorically stated that she voluntarily left with the petitioner and, thereafter, started living at Rohtak in a rented room and when he came to his village to attend the marriage ceremony of his sister, in the meantime, he was apprehended by the police. Soon thereafter, the statement of the victim was recorded under Section 164 Cr.PC. wherein she has stated that this petitioner took away to her to Rohtak by enticing her and made physical relationship and, thereafter, left at Rohtak and fled away and, thereafter, she telephonically informed her house and one villager Rahul Rajdhar came there and took away to her village. He next submits that the victim was also examined by the doctor, where her age has been assessed in between 18 to 20 years. He also submits that from



the statement(s) of the victim, it appears that she voluntarily left her house with the petitioner and, thereafter, started residing in a rented house and had it been the case of forceful kidnapping, she would have certainly informed to anyone, as she had every opportunity to raise the complaint. He lastly submits that the petitioner is a man of fair antecedent and is in custody since 30.04.2021.

On the other hand, learned counsel for the State vehemently opposes the bail application and submits that the victim is a minor, hence, her consent has no meaning in the eyes of law, apart from the fact that the specific allegation has been levelled that the petitioner has established physical relationship.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 161 of the Cr.PC. vis-à-vis the statement recorded under Section 164 of the Cr.PC. coupled with the medical report and the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, Siwan in connection with POCSO Case No. 39 of 2021 giving rise to Nautan P.S. Case No. 89 of 2021, subject to the



condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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