

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50722 of 2023

Arising Out of PS. Case No.-489 Year-2022 Thana- BETTIAH CITY District- West
Champaran

=====

Samir Hawari S/O Salim Hawari R/O Village- Banuchhapar, Fakirana, P.S.
Bettiah Muffasil (Banuchhapar O.P), Dist. West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Upendra Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since
03.07.2022, in connection with Bettiah (Town) P.S. Case No.
489 of 2022, F.I.R. dated 28.06.2022 registered for the offences
punishable under Sections 363, 366A, 34 of the Indian Penal
Code, Section 8 of the POCSO Act but the cognizance has been
taken for the offences under Sections 366A of the Indian Penal
Code and Section 8 of the POCSO Act.

3. The prosecution case, in short, is that the
petitioner is alleged to have kidnapped the minor daughter of the
informant for the purpose of marriage.

4. Learned counsel for the petitioner submits that



the petitioner has clean antecedent and he has been falsely implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. and from perusal of the statements of the victim recorded under Sections 161 and 164 of the Cr. P.C., it clearly suggests that she had gone with the petitioner out of her sweet will and she has not stated anything about the sexual assault against the petitioner and from perusal of the statements under Sections 161 and 164 of the Cr. P.C. both are contradictory with each other. He further submits that the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 03.07.2022.

5. The learned Additional Public Prosecutor for the State, on the other hand, on the basis of material available on record as well as case diary vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner and date of birth certificate of the victim suggests that she was minor at the time of occurrence so there is no consent in the eye of law but fairly submits that the victim has not stated anything about the sexual assault against the petitioner.



6. Considering the facts and circumstances of the case and the period of custody, let the petitioner, above named, be released on bail 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 ADJ VI, Bettiah, West Champaran in connection with Bettiah (Town) P.S. Case No. 489 of 2022, subject to the following conditions :-

(1) 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 antecedents, 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)

Ibrar//-

U		T	
---	--	---	--

