

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51323 of 2022

Arising Out of PS. Case No.-278 Year-2019 Thana- RIGA District- Sitamarhi

Chhotu Kumar S/o Sri Chayan Thakur @ Chand Thakur Resident of Village-
Sonbarsa Majhauilya, P.S.- Bathanaha, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Advocate.

For the Opposite Party/s : Mr. APP.

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. Devendra Kumar, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Bathanaha P.S. Case No. 278 of 2019,
registered for the offences punishable under Sections 363,
366/34 of the Indian Penal Code.

The prosecution case is based on the written report of
the informant alleging therein that on 03.10.2019, the petitioner
had talk with his daughter on her mobile and thereafter came to
know that his daughter was kidnapped by the petitioner and
other co-accused persons. When the informant went to the house



of the informant for release of his daughter, the accused persons abused and threaten with dire consequences. It is also alleged that son of the informant has given information to the police by giving *Sanaha*, however, no action was taken.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that the occurrence took place on 03.10.2019, however the FIR has been instituted on 10.10.2019. He further submits that it is a case of love affair which resulted into marriage and the victim is presently residing in the house of the petitioner and out of the said wedlock two children were also born. He also submits that the statement of the victim was also recorded under Section 164 of Cr.P.C., wherein she categorically stated that she voluntarily left her house and solemnized marriage with the petitioner and residing in her *Sasural*, and she wants to live with the petitioner in his house. No allegation of any force and inducement at the level of the petitioner has been leveled. He next submits that during the course of investigation the statement of independent witnesses were recorded, they have categorically stated that both the petitioner and the victim had been in love, which resulted into marriage. He next submits that the victim herself disclosed her age to be 19 years at the time of recording of her statement



under Section 164 Cr.P.C. He lastly submits that the petitioner having fair antecedent, is in custody since 14.04.2022, and he is ready to abide by all the undertaking given by the Court and will fully cooperate in the trial.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the victim was minor on the alleged date of occurrence as per prosecution.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of the Cr.P.C. and the delay in lodging the FIR, coupled with the fair antecedent and the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VI-cum-Special Judge, POCSO, Sitamarhi, Bihar, in connection with Bathanaha P.S. Case No. 278 of 2019, 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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