

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51731 of 2022

Arising Out of PS. Case No.-24 Year-2022 Thana- KUMAR KHAND District- Madhepura

Deepen Mukhiya @ Dipen Kumar @ Dipen Mukhiya, Son of Pran Kumar Mukhiya @ Shri Pran Kumar Mukhiya, R/O Village- Patharahi (Pathraha), P.S.- Kumarkhand, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Parmanand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Pawan Kumar, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kumarkhand (Bhatni O.P.) P.S. Case No. 24 of 2022 registered for the offences punishable under Sections 363, 366 (A), 379 / 34 of the Indian Penal Code.

The prosecution case is based on the written report of the informant alleging therein that in the night of 08.01.2022, the petitioner along with other co-accused persons after kidnapping his minor daughter taken away and kept her in the house of the Mukhiya of Panchayat. It is further alleged that



when the informant went to the house of the Mukhiya and asked for his minor daughter, the accused persons started assaulting the informant and thereafter, the informant returned to his house where her wife informed that her minor daughter and other co-accused persons ran away with Rs. 1,50,000/- cash and other valuable articles.

Learned counsel appearing on behalf of the petitioner submits that prior to the institution of this case, earlier also the informant had lodged Kumarkhand (Bhatni O.P.) P.S. Case No. 187 of 2020 against the petitioner and others, wherein the victim girl was examined and her age has been disclosed in between 17-19 years and later on the police after taking into consideration the statement of the victim and other persons submitted final form and not sent up the petitioner for trial. In support of the aforesaid contention, the petitioner has brought on record the earlier FIR, medical examination report and copy of the final form on record. He further submits that in fact the victim was in love with the petitioner and thereafter, she voluntarily left her house and solemnized marriage with the petitioner and thereafter, residing with him and this fact has also been corroborated by the statement of the victim recorded under Section 164 of the Cr.P.C., wherein she has categorically



stated that she has voluntarily solemnized marriage with the petitioner and residing in his house but as the family members and the informant are not ready for such relationship, they are pressurizing the petitioner by lodging false cases. He next submits that even as per the age of the victim which was assessed by the board of doctors, on earlier occasion, now the petitioner is a major one and, as such, no case is made out. He lastly submits that the petitioner is in custody since 07.06.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the police has submitted charge-sheet, having found the case true.

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., apart from the fact that earlier for the similar allegation, FIR has been instituted which resulted in submissions of the final form, showing the petitioner as innocent, coupled with the fact that the victim is major, 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 Chief Judicial Magistrate - II, Madhepura in connection with Kumarkhand (Bhatni O.P) P.S.



Case No. 24 of 2022, 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.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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