

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53257 of 2023

Arising Out of PS. Case No.-58 Year-2022 Thana- GHORASAHAN District- East
Champaran

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ATISH KUMAR Son of Upendra Prasad Resident of Village Kawaiya, P.S.
Jharokhar, District East Champaran at Motihari

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Opposite Party/s : Mr.Anil Prasad Singh,APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-08-2023 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
04.07.2023 in connection with Ghorasahan P.S. Case No. 58
of 2022, F.I.R. dated 06.02.2022 registered for the offence
punishable under Sections 363,366A/34 of IPC and Sections
8/12 of the POCSO Act.

3. The prosecution case, in short, is that on
15.01.2022, accused persons including the petitioner are
alleged to have kidnapped the daughter (the victim) of the
informant for the purpose of marriage.

4. Learned counsel appearing for the petitioner
submits that the petitioner has clean antecedent and he has



falsely been implicated in the present case. Further submits that from a bare perusal of the FIR it appears that the date of occurrence as alleged in the FIR is 15.01.2022 but the present FIR has been instituted on 06.02.2022 after delay of 22 days without giving any explanation of delay. Learned counsel for the petitioner submits that in fact the petitioner was in love with the victim girl and the victim girl was recovered and her statement under Section 164 Cr.P.C. was recorded in which she has categorically stated that she had voluntarily left her paternal home and had gone to Delhi with the petitioner. The victim girl has further stated in her 164 Cr.P.C. statement that she has performed the marriage with the petitioner and when the family members of the victim was known that the victim girl has performed the marriage with the petitioner they have lodged the false case against the petitioner and the petitioner is in custody since 04.07.2023.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the date of birth which was recorded in education record of the victim is 13.08.2007 and thus the victim was minor on the date of alleged occurrence and there is no consent in the eye of law.



6. Considering the aforesaid fact, let the petitioner, above named, be released on bail **after framing of the charges** on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Session Judge-cum-Special Judge, POCSO, Motihari, East Champaran in connection with Ghorasahan P.S. Case No. 58 of 2022, with the following conditions:-

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

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

(III) 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 antecedent, 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)

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