

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54600 of 2023

Arising Out of PS. Case No.-114 Year-2021 Thana- DARPA District- East Champaran

Masaraf Ali @ Masaraf S/O Sahabjan Miya R/O Village- Bhusha, P.O.-
Sangrampur, Ps. Sangrampur, Dist. East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Asif Kalim, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 20-09-2023 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 28.06.2023 in connection with Darpa P.S. Case No. 114 of 2021, F.I.R. dated 24.07.2021 registered for the offence punishable under Sections 366(A)/34 of the Indian Penal Code as well as Sections 7/8 of POCSO Act.

3. The prosecution case, in short, is that on 20.07.2021, accused persons including the petitioner are alleged to have kidnapped the minor daughter (the victim) aged about 17 years 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. In fact the petitioner was in love with the daughter of the informant and they have



performed the marriage on 08.04.2022 in Delhi and statement of the victim under Section 164 Cr.P.C. was recorded in which she has categorically stated that she has performed the marriage with the petitioner and when she came to know that a case has been instituted against the petitioner and his family members the victim has returned back and recorded her statement under Section 164 Cr.P.C. and the petitioner has annexed the Nikahnama vide Annexure-P/2 which suggests that the petitioner and the victim have solemnized the marriage on 08.04.2022 and as per Nikahnama the victim is major and the police, after investigation, submitted chargesheet against the petitioner and the petitioner is in custody since 28.06.2023.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner that he kidnapped the daughter of the informant.

6. Considering the aforesaid facts, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge-cum-Special Judge, POCSO, Motihari, East Champaran in connection with Darpa P.S. Case No. 114 of 2021, with the



following conditions:-

(I) One of the bailors should be the victim, namely, Sahana Khatoon, who is wife of the petitioner.

(II) 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.

(III) 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.

(IV) 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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