

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55405 of 2023

Arising Out of PS. Case No.-272 Year-2022 Thana- SANDESH District- Bhojpur

Rohit Kumar @ Rohit Kumar Singh son of Ajay Kumar Singh Village-
Abhaypura Ps- Sandesh Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Adv.

For the Opposite Party/s : Mr. Aditya Narayan Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-09-2023 Heard Mr. Raghunandan Kumar Singh, learned
counsel appearing on behalf of the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Sandesh P.S. Case No. 272 of 2022, registered for the
offences punishable under Sections 366(A), 34, 363, 365 of the
Indian Penal Code and Sections 8/12 of the POCSO Act.

3. Allegedly the minor daughter of the informant had
gone to market but she did not return. In course of search, the
informant came to know that the victim was taken away by the
petitioner and his family members with a view to solemnize
marriage.

4. Learned counsel appearing on behalf of the
petitioner submits that from the narrations made in the FIR it is



evident that the victim left her house on 03.12.2022 but the present FIR has been instituted on 06.12.2022. Moreover, soon after the institution of the FIR, the statement of the victim was recorded under Section 164 Cr.P.C. wherein she has categorically stated that she voluntarily left her home and solemnized marriage with the petitioner and since then they are living as husband and wife. The victim also disclosed her age to be 19 years and the learned court has also assessed the age of the victim girl as 18 years, moreover, the birth certificate of the victim has been brought on record by way of annexure-2, issued on 31.12.2013 by the statutory office, from which it appears that her date of birth is 20.07.2003 and, thus, the victim is major. He next submitted that at no point of time the victim has even a whisper that it is the petitioner who has taken away her rather even during course of investigation when her statement was recorded before the police under Section 161 Cr.P.C. she has stated that she voluntarily left her house with the petitioner and, as such, no case muchless under Section 366(A) of the Indian Penal Code is made out.

5. On the other hand, learned counsel for the State opposes the bail application and submits that from the materials available on record, *prima facie*, the victim appears to be a



minor and, as such, her consent is not legal and valid under the law.

6. Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 Cr.P.C. and the assessment of her age made by the jurisdictional court as well as the birth certificate issued in favour of the victim, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-cum-Special Judge POCSO, Bhojpur at Ara in connection with Sandesh P.S. Case No. 272 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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