

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.55649 of 2022**

Arising Out of PS. Case No.-145 Year-2021 Thana- CHHATAPUR District- Supaul

NITESH KUMAR @ NITESH KUMAR KUSIYEIT, SON OF TARANAND  
KUSIYEIT, Resident of Village- Chhitaha, Panchayat- Tekuna, Ward No.- 03,  
Police Station- Pratapganj, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. M. K. Nirala, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      14-02-2023      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. Arun, learned counsel for the petitioner and  
learned APP for the State.

The petitioner seeks regular bail, who is in custody in  
connection with Chhatapur P.S. Case No. 145 of 2021, giving  
rise to POCSO Case No. 64 of 2021, registered for the offences  
punishable under Sections 363, 365, 366A/34 of the Indian  
Penal Code and Sections 8/17 of the Protection of Children from  
Sexual Offences Act.

The prosecution case is based on the written report  
alleging therein that on 13.05.2021 his minor daughter, aged  
about 15 years, has been enticed away by the petitioner and his



family members to solemnize marriage. The informant further alleged that he came to learn that other co-accused persons took his minor daughter to solemnize marriage with the petitioner, apart from other, it is also alleged that the victim also taken away gold ornaments amounting to Rs. 4,00,000/- along with herself.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R. it is evident that the occurrence took place on 13.05.2021, at about 5.00 P.M., however, the present F.I.R. has been instituted on 20.05.2021. He further submits that in fact the present case is a case of love affair between the petitioner and the victim girl, which resulted in solemnization of marriage. He further submits that during the course of investigation, the statement of the victim was recorded under Sections 161 and 164 of the Cr.P.C. wherein she categorically denied the allegation of any kidnapping, rather she stated that she voluntarily left her house and solemnized marriage with the petitioner and at present she is living in her Sasural. He next submits that the victim was medically examined by the Board of Doctors and her age has been assessed in between 18-20 years and, as such, even on the alleged date of occurrence she was major. He lastly submits that since there is no ingredient of any



enticement or inducement and the victim is a major, no offence as alleged in the F.I.R. is made out, apart from the fact that the petitioner having fair antecedent and is in custody since 15.07.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that from the certificate issued by the Bihar School Examination Board, Patna it appears that the date of birth of the victim is 18.09.2004 and, as such, she was minor on the date of alleged occurrence, apart from the fact that in course of medical examination, the victim was found having pregnancy.

Having considered the submissions made on behalf of the parties and taking into consideration the statement of the victim recorded under Section 164 of the Cr.P.C., coupled with the medical report suggesting the age of the victim in between 18-20 years and the fact that the victim is residing in the house of the petitioner, apart from the fair antecedent of the petitioner 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 and Sessions Judge-VI-cum-Special Judge-Exclusive POCSO Court, Supaul in



connection with Chhatapur P.S. Case No. 145 of 2021, giving rise to POCSO Case No. 64 of 2021, 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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