

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63087 of 2022

Arising Out of PS. Case No.-99 Year-2020 Thana- SHYAMPUR BHATHA District- Sheohar

Md. Rafik, Son of Md. Jafir, Resident of Village - Musidha, P.S.- Charout,
Dist.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-02-2023 Heard learned counsel for the petitioner and learned
APP for the State.

In the present case, the petitioner seeks bail in connection with Shyampur Bhataha P.S. Case No. 99 of 2020 registered for the alleged offences under Sections 363, 366(A) and 120(B) of the Indian Penal Code and Section 12 of the POCSO Act.

As per prosecution case, the informant gave a written report regarding kidnapping of his minor daughter along with minor daughter of one Md. Afak by the petitioner and other FIR named co-accused persons.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner has not kidnapped the daughter of the



informant. However, the petitioner ran away with the daughter of one Md. Afak and solemnized marriage with her. They have a child out of their wedlock. The statement of minor daughter of Md. Afak was recorded under Section 164 Cr.P.C., wherein she has admitted the fact that she has solemnized marriage with the petitioner on 10.06.2020 and other victim girl has also solemnized marriage with one Jahid and she has returned. Learned counsel further submits that the victim girl has also stated she has solemnized marriage on her own and there was no force or coercion and she was not kidnapped by the petitioner. Learned counsel further submits that no useful purpose would be served in keeping the petitioner behind the bar as he has solemnized marriage with the victim girl and there is a son who was born on 29.03.2021. This petition has been filed on behalf of his father-in-law, who has sworn the affidavit and this also shows the matter has been settled between the parties. The petitioner is in custody since 11.07.2022 and the charge-sheet has been submitted in this case. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail submitting that the kidnapped girls were both minor and even they solemnized marriage and stated about their consent but the



consent of minor is immaterial.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the solemnization of marriage of the victim girl whose age was assessed to be 16 years by the learned Magistrate who recorded statement under Section 164 Cr.P.C. and further considering the birth of child and also considering the clean antecedent of the petitioner along with his period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum-Special Judge, POCSO Act, Sheohar in connection with Shyampur Bhataha P.S. Case No. 99 of 2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail



bond of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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