

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64159 of 2023

Arising Out of PS. Case No.-617 Year-2021 Thana- CHANPATIA District- West Champaran

Vikash Mahto @ Vikash Kushwaha @ Vikash Kumar, Son of Lal Bahadur
Mahto, Resident of Village- Vangha, P.S. - Chanpatiya (Kumarbagh O.P.),
District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-12-2023 Heard Mr. Rakesh Kumar, learned counsel appearing
on behalf of the petitioner and the learned APP for the State.

2. The petitioner is apprehending his arrest in connection with Chanpatiya (Kumarbag O.P.) P.S. Case No. 617 of 2021 registered for the offences punishable under Sections 366(A), 372/34 of the Indian Penal Code and Section 12 of the POCSO Act.

3. Allegedly the petitioner along with other accused persons abducted the minor daughter of the informant and taken away from a Bolero vehicle. When the informant raised *hulla*, co-villagers tried to intercept and followed the Bolero vehicle, but failed to catch the same. It is further alleged that when the father of the petitioner was informed about the incidence, he



admitted the mistake committed by his son and ensure that his daughter would be returned within two days, but did not return the victim, thus the F.I.R.

4. It is submitted on behalf of the petitioner that from the narratives made in the F.I.R., it is evident that the alleged occurrence took place on 01.12.2021, however the present F.I.R. has been instituted on 19.12.2021, and no plausible explanation has been given, save and except the statement that the father of the petitioner had assured that his daughter would be returned in few days. He further drew the attention of this Court to the statement of the victim recorded under Section 164 of the Cr.P.C., wherein she has categorically stated that she was in love with the petitioner since 2019 and she voluntarily left her house and went to Ludhiyana and solemnized marriage with the petitioner and started living there. Referring to the statements made by the victim, learned counsel for the petitioner submits that there is neither any materials, showing any inducement nor any force has been used or the victim was seduced to illicit intercourse with another person and thus no case, much less, under Section 366(A) of the Indian Penal Code is made out. He next submitted that as per Aadhar Card, the date of birth of the victim is mentioned as 29.09.2004, however, during the course



of medical examination it has been pointed in the pathological report that the age of the victim is 19 years and even during the course of statement made under Section 164 Cr.P.C., the victim has disclosed her age as 18 years. He lastly submitted that the petitioner is only aged about 21 years and in fact it is a case of love affair, resulting into solemnization of marriage. Moreover, the petitioner is a man of fair antecedent and undertakes that he will fully cooperate in the investigation or in the proceeding of the Court.

5. On the other hand, learned APP for the State opposes the bail application and submits that the materials available on record clearly suggests that the victim is a minor girl and, as such, her consent has no meaning in the eyes of law.

6. Regard being had to the submissions made on behalf of the parties and considering the statement of the victim wherein she has categorically stated that she voluntarily left her house and gone to Ludhiyana alone, coupled with the different date of birth mentioned in the Matriculation Certificate, Aadhar Card and Medical Report, as also the fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, 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 Special Judge POCSO-cum-Additional Sessions Judge- VI, West Champaran, Bettiah in connection with Chanpatiya (Kumarbag O.P.) P.S. Case No. 617 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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