

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70540 of 2023

Arising Out of PS. Case No.-180 Year-2022 Thana- GAUNAHA District- West Champaran

Rajkumar Chaudhary @ Sandeep Chaudhary S/O Sri Vrigun Chaudhary @
Birgun Chaudhary Village- Lachhnauta, Ps. Gaunaha, Dist. West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Adv

For the Opposite Party/s : Mr.Raj Kishor Singh, Adv

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 07-11-2023 Heard Mr. Umesh Chandra Verma, learned
counsel appearing on behalf of the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Gaunaha P.S. FIR No. 180 of 2022 registered
for the offence punishable under Sections 363, 366A/34 of the
Indian Penal Code and 08 of the POCSO Act.

3. Allegedly, while the informant along with his
wife had gone to his field for weeding and when they returned
to their house, they found their daughter was missing, and on
search, they came to know that the petitioner along with his



family members had enticed away their daughter.

4. It is submitted on behalf of the petitioner that from the FIR it is evident that the alleged occurrence took place on 19.08.2022 but surprisingly, the present FIR has been instituted on 24.08.2022 after a delay of five days and no plausible explanation has been assigned. Further submission has been made that, in fact, the petitioner and the victim girl were major and they were in love since long, which resulted into solemnization of their marriage before the District Sub-Registrar-cum-Marriage Officer, West Champaran, on 1st of August, 2023. The certificate of marriage is marked as Annexure 3. Further submission has been made that soon after the institution of the FIR, the victim was examined by a Board of Doctor wherein her age has been assessed in between 19 to 20 years which also corroborate the factum of victim being major. He further drew the attention of this Court to the impugned order, and with reference thereto, he submits that, as per his instruction, the statement of the victim was recorded under Section 164 Cr.P.C, wherein she has not supported the prosecution case rather she has categorically stated that she was in love with the petitioner and out of her own sweet will, she had gone with him and solemnized marriage.



5. On the other hand, learned APP for the State opposes the bail application and submits that prima facie the age of the victim has stated to be 15 years and as such her consent was no meaning in the eyes of law

6. Having considered the submissions made on behalf of the parties and taking note of the materials available on record, this Court finds that the victim was duly examined by the Medical Board where her age has been assessed between the 19 to 21 years and moreover the certificate of marriage suggests that the victim and the petitioner has solemnized the marriage before the District Sub-Registrar-cum-Marriage Officer, West Champaran coupled with the delay in lodging of the FIR and the fact that the petitioner is having 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 Addl. Sessions Judge-VII-cum-the Spl. Judge, under POCSO Act, West Champaran at Bettiah in connection with Gaunaha P.S. FIR No. 180 of 2022, 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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