

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70495 of 2022**

Arising Out of PS. Case No.-359 Year-2022 Thana- BIBHUTIPUR District- Samastipur

Md. Abbu Bakar @ Abbu Bakar, Son of Md. Monif, Resident of Village-
Muhmadpur Sakra, Ward No.-4, P.S.- Bibhutipur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhimanyu Sharma, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-03-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), if any, as pointed out by the office be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Bibhutipur P.S. Case No. 359 of 2022, registered
for the alleged offences under Sections 366A/34 of the Indian
Penal Code and Section 4/6 of the POCSO Act.

As per prosecution case, the minor daughter of the
informant was kidnapped on gunpoint by the petitioner with some
wrong intention.

Learned counsel for the petitioner submits that the
petitioner is innocent and has been falsely implicated in this case.
The F.I.R. has been registered after delay of four days of



occurrence, for which, there is no plausible explanation. Learned counsel further submits that the statement of the victim was recorded under Section 164 of the Cr.P.C. wherein she has stated that she left her house on her own and went to the house of the petitioner and the petitioner has not done anything wrong with her. She has also stated about her intention to marry with the petitioner after she completes the age of 18 years. Learned counsel further submits that the medical report also does not support the prosecution case, as no sign of sexual assault was found on the person of the victim girl and this fact has been mentioned at Para-45 of the case diary. The date of birth of the victim girl as recorded in her matriculation certificate was 26.05.2005 and she was aged about more than 17 years at the time of occurrence. Learned counsel further submits that from the aforesaid fact, it is clear that petitioner has not committed any wrong and he is in custody since 05.09.2022. The charge-sheet has been submitted in this case and the petitioner has got no criminal history.

Learned APP for the State opposes the prayer for bail submitting that consent of victim is not material, as she is a minor girl.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that there appears no overt act on the part of the petitioner in



taking away the minor daughter of the informant and further considering her statement under Section 164 of the Cr.P.C. and her conduct in the whole episode and also considering the fact that the victim is stated to be above the age of 17 years and at this age a girl develops sufficient maturity and is able to understand the consequences of her act, the above named petitioner is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Court (POCSO), Samastipur, Bihar in connection with Bibhutipur P.S. Case No. 359 of 2022, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 for 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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