

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4813 of 2023**

Arising Out of PS. Case No.-164 Year-2017 Thana- BAJPATTI District- Sitamarhi

JAI KISHUN KUMAR @ KRISHNA S/o Ram Pravesh Kapar R/o Village-
Batha Rasalpur, P.S.- Bajpatti, Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Dilip Kumar No. 1, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 29-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since 20.07.2022 in connection with Bajpatti P.S. Case No. 164 of 2017, F.I.R. dated 27.05.2017 for the offences punishable under Sections 363, 366(A), 34 of the Indian Penal Code but the police after investigation submitted the charge sheet against the petitioner and learned A.D.J.-VI has taken cognizance of the offences under Sections 363, 366(A), 504, 34 of the Indian Penal Code and Section 4, 8 of the POCSO Act and Section 9 of Child Marriage Act.

According to prosecution case, in brief, as per F.I.R. is that on 21.05.2017 at about 8 P.M. the minor sister of the informant went outside for defecation but she did not return. On



search, the informant came to know that his villagers Jai Kishun Kumar and Kaushal Kumar Kapar took away his sister on motorcycle. When the informant went to the house of Ram Pravesh Kapar, who is the father of Jai Kishun Kumar and Kaushal Kumar Kapar to inquire about the matter, he abused and tried to scuffle with the informant. The informant has claimed that in collusion with co-accused Ram Pravesh Kapar, the accused persons kidnapped away his minor sister for illicit purpose.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that in fact the petitioner was in love with the victim and petitioner and victim have performed the marriage and in fact the victim is living with the petitioner as a wife. He further submits that the statement of the victim girl which was recorded under Section 164 of Cr.P.C. in which she has supported the contention of the petitioner and she has categorically stated that she has performed the marriage with the petitioner. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 20.07.2022.

The learned Additional Public Prosecutor for the State



has vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-VI-cum-Special Judge, POCSO, Sitamarhi in connection with Bajpatti P.S. Case No. 164 of 2017, subject to the following conditions:-

1. One of the bailors should be the wife of the petitioner namely, Nusrat Khatoon who is also victim in the present case.

2. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

3. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

4. And further condition that the court



below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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