

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71609 of 2022

Arising Out of PS. Case No.-291 Year-2022 Thana- BAKHTIARPUR District- Saharsa

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MUKESH BORBA S/O DAVILAL BORBA Resident of village- Hathnapur,
P.S.- K, Patan, District- Bundi, (Rajasthan).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 20367 of 2023

Arising Out of PS. Case No.-291 Year-2022 Thana- BAKHTIARPUR District- Saharsa

1. DAROGI SHARMA Son of Late Bhanjanlal Sharma R/v- Simri, Bakhtyarpur Sharma Tola Ward No. 2, P.S.- Simri Bakhtyarpur, District- Saharsa
2. LEELA DEVI Wife of Darogi Sharma R/v- Simri, Bakhtyarpur Sharma Tola Ward No. 2, P.S.- Simri Bakhtyarpur, District- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arjun Sharma Son of Late Dilo Sharma R/v- Bherdhari, Ward No. 37, P.S. and District- Saharsa

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 71609 of 2022)

For the Petitioner/s : Mr.Nagendra Kumar, Adv.

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 20367 of 2023)

For the Petitioner/s : Mr.Amarnath Jha, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 28-04-2023 Heard learned counsel for the petitioners as well as

learned APP for the State.

In this case, the petitioners are seeking regular bail



in connection with Simri Bakhtiyarpur P.S. Case No. 291 of 2022, registered for the offences punishable under Sections 363, 363(A), 370, 34 of the IPC and sections 6 & 12 of POCSO Act.

As per allegation, petitioners Darogi Sharma and Leela Devi, who are maternal uncle and aunt of the victim girl, aged about 10 years, came to the informant and asked him to allow the victim to go with them. When the victim did not return after five days, the informant went to the house of petitioner Darogi Sharma. He came to know that, in a conspiracy, Darogi Sharma and Leela Devi had sold her daughter to the petitioner Mukesh Borba and co-accused Siyaram Borwa, resident of Rajasthan for Rs. 1,60,000/-.

The learned counsel for the petitioner Mukesh Borba has submitted that petitioners Darogi Sharma and Leela Devi misrepresented themselves as parents of the girl and they solemnized her marriage with the petitioner Mukesh Kumar. He is innocent and has falsely been implicated and believing the false statement of the petitioners Darogi Sharma and Leela Devi, he solemnized marriage with the victim. He has submitted further that during his statement, he has stated that petitioners Darogi Sharma and Leela Devi had taken Rs. 1,55,000/- for the expenses of marriage. Had the petitioner Mukesh Borba been



aware of the real fact, he would not have solemnized marriage with the victim.

The learned counsel for the petitioners Darogi Sharma and Leela Devi has submitted that the allegation against them is false. At the occasion of marriage of sister of petitioner Mukesh Borba, the mother and father of the victim had also participated and they lived there for seven days.

On the other hand, the learned APP has opposed the prayer for bail and submitted that the victim in her statement under Section 164 of the Cr.P.C. has stated that petitioner Darogi Sharma and his wife Leela Sharma sold her to the petitioner Mukesh Borba.

It appears that the petitioner Darogi Sharma and Leela Devi, by false representation, solemnized the marriage of sister of the informant with the petitioner Mukesh Borba.

Considering the above-mentioned facts and circumstances, let the **petitioner Mukesh Borba** be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned A.S.J.-VI-cum-Spl. Judge (POCSO), Saharsa in connection with Simri Bakhtiyarpur P.S. Case No. 291 of 2022 subject to the following conditions:-



(i) The petitioner shall cooperate in the disposal of trial and make themselves available as and when required by the court.

(ii) If the petitioners are found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioners and the learned court below will take decision in accordance with law.

So far as **petitioners Darogi Sharma and Leela Devi** are concerned, I do not think it to be a fit case for bail, which is hereby **rejected**.

(Nawneet Kumar Pandey, J)

Kundan/Nirmal

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