

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6805 of 2024

Arising Out of PS. Case No.-991 Year-2022 Thana- BARACHATTI District- Gaya

Chhoti Paswan @ Sajjan Paswan @ Chhotu Paswan Son of Rajendra Paswan
R/o vill - Langura, P.S. - Mohanpur, Distt. - Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rinku Devi, W/o late Briju Paswan, Vill. Lagura Kala, P.S. Mohanpur,
Dist. Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ansul, Adv.
Mr. Rakesh Kumar, Adv.
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 21-06-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with POCSO
Case No. 85 of 2023 arising out of Barachatti (Mohanpur) P.S.
Case No. 991 of 2022 instituted for the offences under Sections
363, 366A, 376(3) of the Indian Penal Code and Section 4 of the
POCSO Act.

3. As per First Information Report, the accusation
against the petitioner is of kidnapping the minor victim daughter
of the Informant who was sleeping on the cot and induced her to
go with him.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. He further submits that actually the mother of the victim used to insult and scold the victim girl and on account of such torture, she decided to leave her home and, thus, the petitioner never induced the victim to go with him. He further submits that in the statement made under Section 164 Cr.P.C., she has not stated anything against the petitioner rather she has stated that she had gone with the accused petitioner voluntarily. She has also admitted of there being love affair between them. Thus, the statement of the victim girl recorded under Section 164 Cr.P.C. does not support the prosecution case. He again submits that in the medical report, the age of the victim girl has been assessed to be between sixteen and seventeen years. Though, in the medical report, the hymen has been shown to be ruptured but, it is also mentioned that there is no sign of recent sexual intercourse. The petitioner has no criminal antecedent and is languishing in judicial custody since 02.01.2023 without any rhyme or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the allegation alleged against the petitioner is serious



in nature. Cognizance has been taken against the petitioner under Section 4 of the Protection of Children from Sexual Offences Act and under Section 363, 366A, 376(3) of the I.P.C. He further submits that from the medical report, it transpires that the hymen of the victim has been found to be ruptured. Several witnesses in Para 6, 7, 8 and 9 of the case diary have supported the prosecution case. The victim girl is a minor and, thus, the petitioner does deserve bail.

6. Considering the entire facts and circumstances of the case and taking into account the period of custody of the petitioner and keeping in view the 164 Cr.P.C. statement of the victim girl not supporting the prosecution case as also the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with POCSO Case No. 85 of 2023 arising out of Barachatti (Mohanpur) P.S. Case No. 991 of 2022, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Rudra Prakash Mishra, J)

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