

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17994 of 2024

Arising Out of PS. Case No.-634 Year-2023 Thana- DHAKA District- East Champaran

NAGESHWAR KUMAR SON OF PRABHU RAY Resident of Village -
Dharharwa, P.S.- Chiraiya, District- East Champaran, Motihari

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Karandeep Kumar, Advocate
For the Opposite Party/s	:	Mr.Umeshanand Pandit, APP
For the informant	:	Mr. Raj Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-07-2024 Heard learned counsel for the petitioner, the State
and the informant.

2. The petitioner is apprehending arrest in connection with Dhaka P.S. Case No. 634 of 2023 instituted under Sections 363, 366(A),34 of the Indian Penal Code and section 8 of the POCSO Act lodged on 24.11.2023 by the informant, Ajay Kumar.

3. As per the prosecution story, the informant alleged that his daughter went for coaching but thereafter, disappeared. He accordingly, feared that the named accused including the petitioner has kidnapped the daughter. Accordingly, the FIR. Subseauently, the girl was recovered and in her 161 Cr.P.C. statement though she narrated that earlier she had in relationship



with this petitioner, later she went with one Dipu Kumar, crossed over to Nepal and upon knowledge of the FIR returned.

4. In the said statement, she further alleged that family members of this petitioner wanted to marry her and in the process, a video was prepared by this petitioner which was used by him to force her to marry him. In her 164 Cr.P.C. statement, she bettered it and made allegation against this petitioner of having taken him to a place, forced her to smell something which made her unconscious and later left her in a place from where she reached the police station along with her family.

5. Learned counsel for the petitioner submits that he is a student, 20 years of age, earlier was in relationship, have no role to play in the matter and on the pressure of the family members, the girl made statement against him and in the process has become an accused.

6. Learned counsel appearing on behalf of the informant on the other hand opposes the prayer submitting that the 164 Cr.P.C statement goes against him.

7. Having taken the submissions of the parties as also the prosecution story, 164 Cr.P.C. statement as also subsequent statement under section 161 of the Cr.P.C., the allegation is



there, Deepu Kumar whose name has come in the 161 Cr.P.C. statement is not in the category of accused nor any statement has been recorded, he is 20 years of age, FIR lodged, will be facing the trial, do not have criminal antecedent, putting him in jail with hardened criminals does not fit it deem and proper and in that background, this Court is inclined to extend him the privilege of anticipatory bail.

8. Let the petitioner be released on bail, in the event of his arrest or surrender before the subordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each in connection with Dhaka P.S. Case No. 634 of 2023 to the satisfaction of learned 06th Additional Sessions Judge-cum-Special Judge POCSO Act, East Champaran at Motihari subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his



bail bond by the Trial Court itself;

(iii) the petitioner shall co-operate in the investigation and make himself available to the police as and when required;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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