

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26781 of 2024

Arising Out of PS. Case No.-96 Year-2023 Thana- BALIA BELON District- Katihar

SAHDEV RAY @ SADEB KUMAR RAY SON OF ROHI LAL RAY
RESIDENT OF VILLAGE - MALIKPUR, P.S. - BALIYA BELON,
DISTRICT - KATIHAR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR BIHAR
2. BHOLA SINGH SON OF JALU SINGH R/V- MANIKPUR, P.S.- BALIYA BELON, DISTT.- KATIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Raghvendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr.Madan Kumar, APP
for O.P. No. 2	Mr. Musowir, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 26-07-2024 Heard learned counsel for the petitioner, the State as also the informant.

2. The petitioner is in judicial custody in connection with Balia Belon P.S. Case No. 96 of 2023 for the offence punishable under Sections 363, 366(A)/34 of the Indian Penal Code lodged on 28.07.2023 by the informant, Bhola Singh.

3. As per the prosecution story, the allegation is that the informant's daughter had gone to attend nature's call but failed to return. Later, came to the notice that this petitioner alongwith family members are behind her disappearance. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that



there is delayed lodging of the FIR. The mater is of 24th July, 2023 whereas the FIR was lodged on 28.07.2023. He further submits that the girl upon return, has not made any allegation against the petitioner and has stated that she had gone on her own.

5. Learned counsel for the informant on the other hand opposes the prayer submitting that the girl is minor.

6. Though, the girl is minor, her statement shows that she went to Raiganj by train on her own and later the police brought her back. The petitioner is a young boy of 19 years, do not have criminal antecedent and is in custody since 12.8.2023 (para-12 of the petition), FIR lodged, he will be facing the trial, this Court is inclined to extend him the privilege of bail with conditions.

7. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District & Sessions Judge-VII-cum Special Judge, POCSO Court, Katihar, in connection with Balia Belon P.S. Case No. 96 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his



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 appear before the concerned police station every fortnight for next six months to mark his attendance;

(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.

8. Having delivered the order, this Court has to record following facts.

9. Pursuant to the last order by the coordinate bench on 18.04.2024, the case diary and statement of the victim girl under section 164 of the Cr.P.C. have been sent to the Court and it is presented before this Court.

10. A perusal of the 164 Cr.P.C. statement of the



victim girl shows that despite recording the age of the victim girl as 15 years, the Judicial Magistrate-1st Class, Katihar has incorporated her name instead of fixing either ‘X’ or any pseudo name.

11. In that circumstances, it is necessary to sensitized her and is further advised to go through the POCSO Act and apprise herself on how to record the statement in such matters.

12. Let a copy of the order be communicated to the District & Sessions Judge, Katihar for his perusal and needful.

(Rajiv Roy, J)

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