

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30935 of 2024

Arising Out of PS. Case No.-41 Year-2024 Thana- BARACHATTI District- Gaya

MAHESH YADAV S/o SOMAR YADAV, R/O VILLAGE- GANGUAR, P.S-
BARACHATTI, DISTT.- GAYA (BIHAR).

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Janki Yadav, S/o Devlal Yadav, R/o Village – Ganguar, P.S. - Barachatti,
District – Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ali M Ahmad, Advocate. Mr. Shailesh Kumar, Advocate.
For the State	:	Mr. Tapeswar Sharma, APP.
For the informant	:	Mr. Zainul Abedin, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 09-08-2024 Heard Mr. Ali M Ahmad, learned counsel along with

Mr. Shailesh Kumar, learned counsel appearing on behalf of the

petitioner; Mr. Tapeswar Sharma, learned A.P.P. for the State

and Mr. Zainul Abedin, learned counsel for the informant.

2. The petitioner seeks regular bail in connection with

Barachatti P.S. Case No. 41 of 2024 for the offence punishable

under Sections 366, 366A and 376/34 of the Indian Penal Code

and Sections 4 and 6 of the POCSO Act.

3. As per the allegation made in the F.I.R., the

petitioner is said to have cooperated the co-accused Nitish

Kumar to forcibly marry with the minor daughter of the

informant.

4. Learned counsel appearing on behalf of the



petitioner submitted that the victim in her statement recorded under Section 164 Cr.P.C. has not alleged that it is the petitioner who has committed any physical or sexual assault with her. He further submitted that admittedly specific allegation is against co-accused Nitish Kumar and he is in custody. Petitioner is uncle of the co-accused Nitish Kumar and no allegation has been made against him by the victim in her statement to the effect that he was also one of the person who had forcibly kidnapped her. Meager allegation has been made against him that he was the main conspirator. Petitioner has clean antecedent and he is in custody since 17.01.2024.

5. Mr. Zainul Abedin, learned counsel tendered his appearance on behalf of the informant and submitted that the petitioner is the main conspirator and has played with the life of the minor daughter of the informant by cooperating the co-accused Nitish Kumar to forcibly marry with the victim. As such, the petitioner don't deserve to be released on bail.

6. Learned A.P.P. for the State supported the argument advanced on behalf of the informant.

7. Having considered the rival submissions made on behalf of the parties, as well as, the observation of the District Court in respect of statement of the victim recorded under



Section 164 Cr.P.C., I don't find there is any allegation of physical or sexual assault with the daughter of the informant against the petitioner, the only allegation against the petitioner is that he was the main conspirator who had cooperated the co-accused Nitish Kumar in forcibly marrying with the victim, *prima facie*, I am of the opinion that the petitioner has made out a case to be released on bail.

8. The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, POCSO-cum-Additional Sessions Judge-VII, Gaya in connection with Barachatti P.S. Case No. 41 of 2024, subject to the condition to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically lose its force.

(Purnendu Singh, J)

mantreshwar/-

U		T	
---	--	---	--

