

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36404 of 2024

Arising Out of PS. Case No.-41 Year-2024 Thana- BANKA District- Banka

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BIRBAL KUMAR DAS @ VIRVAL DAS SON OF NAND LAL DAS
RESIDENT OF VILLAGE - KARHARIYA, P.S. AND DISTRICT - BANKA
(BIHAR)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Brij Nandan Prasad

For the Opposite Party/s : Mr.Syed Ehteshamuddin

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**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

3 31-07-2024 Heard learned counsel appearing on behalf
of the parties.

2. The petitioner seeks bail in connection with
Banka P.S. Case No.41 of 2024 registered for the offence under
Sections 366(A) of the Indian Penal Code and Section 8 of the
POCSO Act.

3. Allegation against the petitioner is to have
taken away the daughter of the informant for the purpose of
sexual intercourse.

4. Learned counsel appearing on behalf of the
petitioner has submitted that petitioner has falsely been
implicated in the present case. It is submitted that the allegation
as regard to sexual assault is general and omnibus has been



levelled against this petitioner. It is submitted that it appears from impugned order that the victim has stated in her statement dated 03.02.2024 as recorded under Section 161 of the Cr.P.C. that she went away with the petitioner to perform her marriage on her own sweet will as she is in love affair with the petitioner and both of them live together and established physical relation. It is also submitted that it appears from perusal of statement of victim as recorded under Section 164 of the Cr.P.C. supports the statement of victims as recorded under Section 161. It is submitted that the date of birth of the victim is 03.12.2007, as mentioned in School Identity card issued by the Primary School School Durgashtan, Banka and it appears from the medical report that the age of victim is between 17 to 19 years. It is further submitted that petitioner is a man of clean antecedent and he is in custody since 05.02.2024.

5. Learned APP appearing for the State, opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances and submissions made on behalf of the petitioner and as the victim itself stated in her statement as recorded under Section 161 of the Cr.P.C. as well as under Section 164 of the Cr.P.C. that as the victim is in love with the petitioner she herself went with



petitioner to marry with him and performed marriage in Amarpur temple own her own sweet will and also established physical relation with the petitioner, let the petitioner, above named, is directed to be released on bail in connection with Banka P.S. Case No.41 of 2024 on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO, Banka.

(Ramesh Chand Malviya, J)

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