

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37679 of 2024

Arising Out of PS. Case No.-115 Year-2023 Thana- SRINAGAR District- West Champaran

Anuj Kumar Son Of Chuman Kushwaha @ Chuman Prasad Village-
Suryapur, Ps- Srinagar, Dist- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Preeti Kumari, Advocate

For the Opposite Party/s : Mr. Choubey Jawahar, APP

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

ORAL ORDER

4 02-08-2024 Vide order dated 31.07.2024, the petitioner was granted bail by this Court. During the course of signature of bail order, it came to light that charge-sheet in this case has been submitted only under Section 363 of Indian Penal Code and not under Sections 363 and 365 of the I.P.C as submitted by the In-charge APP Mrs. Renu Kumari. Since, Section 363 IPC is bailable in nature, this Court thought fit for getting the factual clarification and for which the matter has been placed today under the heading “To Be Mentioned.”

2. This Court asked Mr. Choubey Jawahar, learned In-charge APP to verify immediately from the concerned that in this case whether any supplementary charge-sheet has been filed.



3. Learned APP, after having telephonic conversation with the SHO of Srinagar Police Station, submitted that no supplementary charge-sheet with respect to the petitioner has been filed in this case and the charge-sheet has been filed with respect to the petitioner only under Section 363 IPC and, thereafter, cognizance has been taken by the Court below under Section 363 IPC by order dated 11.12.2023.

4. This Court is surprised to note that how the Magistrate Court as well as the Sessions Court can avoid such vital point while rejecting the bail application of the petitioner who is in custody since 11.09.2023 in a bailable offence, which is cognizable and triable by a Magistrate of 1st Class under the First Schedule of Code of Criminal Procedure, 1973 under which bail is a matter of right of accused. This is a serious issue on which the Court will take cognizance on the next appointed date when all the relevant documents will be produced.

5. Learned APP is directed to bring all documents viz. charge-sheet, cognizance order as well as the bail order of the Magistrate by way of filing counter-affidavit sworn by investigating officer of Srinagar P.S Case No. 115 of 2023.

6. The petitioner seeks bail in connection with Srinagar P.S. Case No. 115 of 2023 instituted for the offences



under Section 363 of the Indian Penal Code with regard to the allegation of kidnapping the son of the informant.

7. Since the offence under Section 363 of the Indian Penal Code is bailable in nature, without going into the merits of the case as the bail is a matter of right of accused-petitioner, the petitioner is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Court below in connection with Srinagar P.S. case No. 115 of 2023.

8. In view of the present order, passed today, the order no. 3 dated 31.07.2024 passed in the present proceeding stands deleted. A copy of the unsigned order dated 31.07.2024 shall be kept on record. The office is directed to change/update the progress of this case accordingly.

9. List this matter under the heading “To be Mentioned” on 09.08.2024.

(Rudra Prakash Mishra, J)

Pankaj/-

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

