

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37543 of 2024

Arising Out of PS. Case No.-274 Year-2023 Thana- NAUHATTA District- Saharsa

Md. Raja Son of Md. Aslam Resident of Village - Parsa Ward No. - 10, P.S.
And District - Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Avrun Khatun Wife Of Md. Mardun Nadaf Resident Of Village - Nauhatta Ward No.3, P.S. - Nauhatta, District - Saharsa

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amarnath Jha, Advocate
For the Opposite Party/s	:	Mr. Ajay Kumar No. 2, APP
For the Informant	:	Mr. Satyam Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 26-07-2024 Heard learned counsel for the petitioner as well as learned counsel for the informant and learned APP for the State.

2. In the present case, the petitioner seeks bail in connection with Nauhatta P.S. Case No. 274 of 2023 registered on 23.11.2023 for the alleged offences under Section 366A/34 of the Indian Penal Code and Sections 4 and 18 of the POCSO Act.

3. As per prosecution case, the minor niece of the informant was kidnapped by the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The F.I.R. has been lodged after delay of five days for



which there is no reasonable explanation. The victim girl was major at the time of occurrence and her age was assessed to be more than 22 years by the medical board. The victim girl went on her own with the petitioner and she was never kidnapped. Though the charge sheet has been submitted under Sections 363, 366A of IPC and Section 12 of POCSO Act but no offence under these provisions is made out against the petitioner. The statement of the victim girl was recorded under Section 164 of Cr.P.C. and from the statement it appears that the petitioner forcibly administered some intoxicating substance to the victim which is not believable due to her subsequent conduct. It appears that she was taken to Mumbai but she did not raise any alarm though she was kept for five days in Mumbai. The victim girl has further stated that no wrongful act was committed on her by the petitioner. So the statement absolved the petitioner from any wrong doing. The petitioner is having no criminal antecedent and is in custody since 30.11.2023.

5. Learned APP as well as learned counsel appearing on behalf of the informant oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the informant girl is minor and her age was assessed to be 17 years by the learned Magistrate and even the



certificate issued by the school shows her date of birth to be 06.04.2006. The victim girl has supported the case that the petitioner kidnapped her.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the doubt over age of the victim girl and her conduct during the alleged occurrence and further considering the period of custody of the petitioner along with submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VI -cum- Special Judge, POCSO, Saharsa/concerned court in connection with Nauhatta P.S. Case No. 274 of 2023 corresponding to Special POCSO Case No. 14 of 2024, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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