

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50401 of 2024

Arising Out of PS. Case No.-248 Year-2023 Thana- SISWAN District- Siwan

Manish Kumar Yadav @ Manish Yadav S/o Late Bhuali Yadav R/o Village-Kathtal, P.S.-Siwan,(Chainpur O.P), District-Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Krishna Nand Yadav S/O Late Bhuali Yadav R/O Village-Kathtal, P.S.-Siswan(chainpur O.P.), Dist-Siwan

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms.Deepika Sharma
		Mr. Rajat Kumar Tiwary
For the Opposite Party/s	:	Mr. Satyendra Narain Singh

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 21-09-2024 Heard Ms. Deepika Sharma, learned Advocate for the petitioner and Mr. Satyendra Narain Singh, learned Additional Public Prosecutor for the State.

2. This is an application for grant of bail to the petitioner, who is in custody in connection with Siswan (Chainpur O.P.) P.S. Case No. 248 of 2023, registered for the offences punishable under Sections 363 and 366A of the Indian Penal Code. Later on Section 376 of the Indian Penal Code and Section 4 of the Protection Of Children from Sexual Offences Act, 2012 as well as Section 9 of the Prohibition of Child Marriage Act, 2006 were added.

3. Based upon the written report, the prosecution



alleges that the minor daughter of the informant left her home to attend her coaching classes, however she did not return. In course of search, the informant came to know that this petitioner had lured his daughter with the intention of marriage and had taken away some where else.

4. Learned Advocate for the petitioner contended that in fact both the victim girl and the petitioner were in love and the victim voluntarily left her house and thereafter they solemnised marriage. This fact has also been supported by the victim in her statement recorded under Section 164 Cr.P.C. It is further contended that even in the trial wherein the deposition of the victim was recorded, she has categorically deposed that she voluntarily left her house and went to New Delhi and solemnised marriage and, now she does not want to go to her home. The attention of this Court has also been drawn to the deposition of the doctor, copy of which has been placed before this Court to the effect that the doctor has opined the age of the victim in between 18-20 years. Adverting to the aforesaid facts, learned Advocate thus contended that the victim is a major and both the parties have solemnised marriage with consent and as such no case in any of the penal provision of the IPC and the POCSO Act is made out. It is lastly contended that be that as it



may, now the petitioner has been incarcerated since 09.10.2023 and the deposition of the victim and the informant has also been recorded, as such, there is no chance of tampering with the evidence and intimidating the witnesses.

5. On the other hand, learned APP for the State opposed the bail application submitted that the petitioner bears two criminal antecedents and his release would certainly hamper the progress of the trial.

6. Regard being had to the submissions made on behalf of the parties and considering the deposition of the victim girl along with the medical report as well as the statement of the doctor in court and the period of custody, let the petitioner, abovenamed, be released on bail 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, Siwan in connection with Siswan (Chainpur O.P.) P.S. Case No. 248 of 2023, subject to the condition that one of the bailors shall be the own/close family members of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.



(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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