

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44523 of 2024

Arising Out of PS. Case No.-551 Year-2023 Thana- RAXAUL District- East Champaran

Alamgir Mian S/o Dhorai Mian @ Dhorai Miya R/o Village-Singhpur
haraiya, Ward No. 11, P.S.-Haraiya, District-East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mahendra Das S/o Late Nathuni Das R/o Village-Bharatmathi, Ward No. 06,
P.S.-Haraiya, District-East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 18-09-2024 Heard the parties.

2. The petitioner is in custody in connection with Raxaul (Haraiya) P.S. Case No. 551 of 2023 for the offence punishable under sections 363 and 366(A) of the Indian Penal Code and Section 8 of the POCSO Act lodged on 18.12.2023 by the informant, Mahendra Das.

3. As per the prosecution story, the informant alleged that the victim had gone to attend the nature's call but failed to return and later, came to know that this petitioner has taken her. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that the girl subsequently was found in Delhi, the Police took into



custody both the petitioner and the girl, she later recorded her statement in which, contradicted the allegation of the informant and further informed that she went on her own and solemnized marriage with the petitioner at the temple.

5. In this case, notice was issued to the opposite party no. 2 by a Coordinate Bench on 27.06.2024 and as per the office notes dated 03.09.2024, the opposite party no. 2 has received the ordinary process personally. Though, there is no appearance on his behalf.

6. Learned APP opposes the prayer for bail but have taken note of the fact that the girl under Section 164 of the Cr.P.C. has not supported the prosecution story.

7. In that background, considering the fact that he is in custody since 03.02.2024 (paragraph-4 of the petition), do not have any criminal antecedent and is only of twenty one years of age, this Court is inclined to extend him the privilege of bail with conditions.

8. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned 7th Additional Sessions Judge-cum-Special Judge, POCSO, East Champaran, Motihari, in connection with Raxaul (Haraiya) P.S. Case No.



551 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

9. In this case, this Court has taken note of the fact that Ms. Swati Suman, learned J.M. who has recorded the statement of the victim girl despite taking note of the fact that she is a minor, her name has been incorporated in the statement.

10. She must go through the POCSO Act and henceforth desist from naming either the victim and/or the parents in the said statement recorded if it is found that the



victim is a minor.

11. Let a copy of the order be sent to the learned District Judge, East Champaran, Motihari for his/her perusal and necessary action.

(Rajiv Roy, J)

Adnan/-

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