

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49774 of 2024

Arising Out of PS. Case No.-282 Year-2023 Thana- BARHIYA District- Lakhisarai

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Gautam Paswan, Son of Dhiraj Paswan @ Dheeraj Paswan, Vill -
Indupur(R/O- Hetupur Kariya Wrongly Stated In Impugned Order), Ward No.
20, P.S. - Barahiya, Dist - Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranju Devi, Wife Of Awadhesh Ram, R/O- Village- Indupur, Ward No. 20,
P.S.- Barhiya, Distt.- Lakhisarai

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan, Advocate
For the Opposite Party/s : Mr. Arun Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 21-09-2024 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Barhiya P.S. Case No. 282
of 2023 registered for the offence punishable under Sections 366
and 34 of the Indian Penal Code.

3. The allegation against the petitioner is of enticing
away the daughter of the informant for the purposes of wrongful
act.

4. Learned Advocate appearing on behalf of the
petitioner drawing the attention of this Court to the narratives



made in the FIR contended that the alleged occurrence took place on 06.11.2023, but the present FIR has been instituted on 23.11.2023, without there being any explanation of delay. It is next contended that the allegation clearly suggest that both the victim girl and the petitioners were knowing each other. The statement of the victim was recorded under Section 164 of the Code of Criminal Procedure, wherein she has categorically stated that she voluntarily left her house and went to Surat alongwith the petitioner and solemnized marriage on 09.11.2023. The victim also stated that she has not been kidnapped by anyone. It is next contended that there is no material that the victim was subjected to any inducement or force has been used for the purposes of establishing sexual intercourse and, as such, no offence much less under Section 366 is made out. The victim is a major, but only because of the fact that her date of birth has been mentioned in the school record as 04.06.2006, by treating her to be a minor, the case has been instituted. Moreover, the police has not submitted chargesheet under any of the penal provision of the POCSO Act. It is lastly contended that the petitioner has been incarcerated since 08.01.2024.

5. On the other hand, learned Additional Public



Prosecutor for the State vehemently opposes the bail application and submits that the consent of the minor girl has no legal sanctity and the school record clearly suggest that the petitioner is a minor.

6. Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of the Code of Criminal Procedure coupled with the fact that the investigation of the crime is complete and the chargesheet has been submitted; moreover, the petitioner is having fair antecedent and there is no allegation of any inducement or force used by the petitioner, let the petitioner, named above, 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 Chief Judicial Magistrate, Lakhisarai in connection with Barhiya P.S. Case No. 282 of 2023, subject to the condition that one of the bailors will be the close relatives 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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