

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50520 of 2024

Arising Out of PS. Case No.-258 Year-2022 Thana- MADHUBAN District- East Champaran

RITESH KUMAR SON OF SURESH THAKUR RESIDENT OF VILLAGE
- MACHARGAWA, P.S. - KOTWA, DISTRICT - EAST CHAMPARAN

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. AWADESH PRASAD SON OF SRI SAHDEO PRASAD RESIDENT OF
VILLAGE - DHULMA, P.S. - MADHUBAN, DISTRICT - EAST
CHAMPARAN

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 24-09-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 363 and 366(A)/34 of the Indian Penal Code as well as Section 8 of the POCSO Act.

3. Learned counsel for the petitioner submits that the case was taken up on 21.08.2024 when notices were issued on opposite party no. 2 by a learned Coordinate Bench of this Court and case diary along with the statement of the victim recorded under Section 164 Cr.P.C. was called for. It is further submitted that the case diary and the statement of the victim recorded under Section 164 Cr.P.C. has been received but then service



report with respect to notices issued on opposite party no. 2 is awaited.

4. The Court proceeds to decide the case on merits in view of the allegation alleged in the FIR and the materials which have transpired during the course of investigation along with the statement of the victim recorded under Section 164 Cr.P.C.

5. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent.

6. The informant alleges that on 10.06.2022 his minor sister aged about 15 years at 05:00 a.m. had gone to attend the call of nature but was kidnapped by the petitioner.

7. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is further submitted that there is a delay of five days in instituting the FIR as the date of occurrence is 10.06.2022 and the FIR came to be instituted on 15.06.2022. It is next submitted that the victim in her statement recorded under Section 164 Cr.P.C. has not supported the case of the prosecution and has stated that she was in love with the petitioner and fled away with him to Kathmandu and stayed there for twenty days as her parents were contemplating to



marry her elsewhere. It is also submitted that the victim has not alleged in her statement recorded under Section 164 Cr.P.C. that she was physically exploited.

8. Learned A.P.P. fairly submits that the Doctor assessed the age of the victim in between 16½ to 17½ years but still the victim was a minor. It is further submitted that the victim herself has disclosed her age in her statement recorded under Section 164 Cr.P.C. as 14 years and in the assessment of the Court also she was a minor as such her statement that she on her own volition left with the petitioner to Kathmandu and stayed there for twenty days does not have any relevance.

9. Considering the submissions made by the learned A.P.P., the Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Madhuban P.S. Case No. 258 of 2022 pending in the Court of learned 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, Motihari/Successor Court.

10. Hence, the prayer for anticipatory bail of the petitioner is rejected.

11. However, if the petitioner surrenders before the learned trial court on or before 21.10.2024, the learned trial court shall try to dispose of the case on the same day keeping in



mind the fact that victim has not supported the case of the prosecution nor in her statement recorded under Section 164 Cr.P.C. she has remotely suggested that she was physically abused.

(Satyavrat Verma, J)

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