

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54653 of 2024

Arising Out of PS. Case No.-138 Year-2024 Thana- BETTIAH CITY District- West
Champaran

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Usman Miyan @ Usman Ansari @ Usman Miya Son Of Khalil Miyan
Village- Baswariya, Ps- Bettiah, Dist- West Champaran

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Rukhsar Khatoon Wife Of Hasnain Miyan Village- Baswariya, Ward No. 19,
Ps- Bettiah Town, Dist- West Champaran

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava, Adv.
For the Opposite Party/s : Mr. Arbind Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 10-12-2024 Heard the parties.

2. The petitioner is in custody in connection with Bettiah (Town) P.S. Case No. 138 of 2024 for the offence punishable under Sections 363 and 365 of the Indian Penal Code and later on Sections 376A, 376B, 302, 201, 364, 212 and 34 of the Indian Penal Code read with Section 6 POCSO Act, lodged on 23.03.2024 by the informant, Rukhsar Khatoon.

3. As per the prosecution story, the informant alleged that her daughter “X” was missing after she visited her *phupha’s* house. This led to the F.I.R. Subsequently, the investigation took place and the role of his cousin brother “Y” (named not been disclosed as he himself is minor) came and on his confessional

statement, this petitioner who is father of “Y” and Sudhir Kumar/Raja Kumar came. Allegation against this petitioner is that once “Y” kidnapped the minor cousin sister, tried to sale her off, as the same could not fructify, informed his father who firstly got angered and later told him to kill her. Thereafter, “Y” took her to a place near the river and killed her.

4. Learned counsel for the petitioner submits that the minor boy “Y” kept on implicating people in as much as the police after investigation has found Sudhir Kumar/Raja Kumar to be missing and he was alone seen in the CCTV taking away the minor girl, who was subsequently killed. He has also dragged his father alleging that he directed him to kill. The petitioner has no antecedent and he is in custody since 28.03.2024.

5. Learned A.P.P. opposes the prayer for bail.

6. Learned counsel for the informant vehemently opposes the prayer for bail and submits that a perusal of the confessional statement of “Y” would show that he himself has named his father and as such, on his direction, she was killed.

7. Considering the submissions put forward by the parties, as also the fact that the main allegation is against the son of the petitioner “Y”, who planned the entire conspiracy, picked

up the cousin sister, killed her and subsequently, threw her and the body was later recovered by the police, though the name of the petitioner is there as an order giver, he has remained in custody since 28.03.2024 having no criminal antecedent, charge-sheet stands submitted, ultimately, he will have to face the music, 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/- (rupees ten thousand only) with two sureties of like amount each to the satisfaction of learned Special Judge, POCSO-cum-ADJ-VI, West Champaran, Bettiah, in connection with Bettiah (Town) P.S. Case No. 138 of 2024, subject to the following conditions:

(i) one of the bailors should be the family member/relative of the petitioner, who shall provide official document to show his *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 their bail bonds.

(Rajiv Roy, J)

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