

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53351 of 2024

Arising Out of PS. Case No.-13 Year-2020 Thana- SAHARGHAT District- Madhubani

Guddu Yadav, S/o Suresh Yadav, R/o vill - Ramnagar, P.S. - Saharghat, Dist. -
Madhubani.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Bharti, Advocate

For the Opposite Party/s : Mr.Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 28-08-2024

1. Heard learned counsel appearing on behalf of the petitioner and learned Additional Public Prosecutor appearing on behalf of the State.

2. The accused/petitioner is named in F.I.R. and apprehending his arrest in connection with Saharghat P.S. Case No. 13 of 2020, registered for the offences punishable under Sections 363, 366A of the Indian Penal Code.

3. The allegation against above named petitioner is to kidnap the minor daughter of informant aged about 17 years alongwith other co-accused persons/family members to



solemnize marriage.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner implicated falsely with present case and therefore, after thorough investigation, police submitted final form against petitioner but the learned trial court took cognizance against petitioner for the offences under Sections 363 and 366 A of the Indian Penal Code. It is submitted that no cognizance was taken under POCSO Act. It is also pointed out by learned counsel that there is no allegation as per facial perusal of FIR that kidnap was made as to forced or seduced the minor daughter of informant to join illicit intercourse with another person and therefore, no *prima facie* case under Section 366A of the Indian Penal Code is made out against this petitioner. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Sat Parkash Vs. State of**



Haryana reported through **2015(16) SCC475**.

It is also pointed out that the victim during course of investigation categorically stated that she was in love with accused petitioner and solemnized marriage out of her own sweet will, where it has been further submitted by learned counsel that now the victim is living happily with petitioner as wife. It is submitted that petitioner is a man of clean antecedent.

5. Learned APP opposes the prayer of bail.

6. Considering the aforesaid facts and circumstances and by taking note of fact as victim did not supported the occurrence of kidnapping or seducing as to establish illicit intercourse with another person, negating *prima facie* a case under Section 366A of the IPC, where, petitioner is a man of clean antecedent, accordingly, above named petitioner, in the event of his arrest or surrender before the learned trial Court, within



a period of four weeks of the order, is directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned J.M.-1st Class, Benipatti, District- Madhubani/concerned Court, where the case is pending in connection with Saharghat P.S. Case No. 13 of 2020, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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