

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61587 of 2023

Arising Out of PS. Case No.-26 Year-2023 Thana- ALINAGAR District- Darbhanga

MUKESH KUMAR MUKHIYA S/O SAJJAN MUKHIYA VILLAGE-
GOSABA, PS- ALINAGAR, DIST- DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha, Adv. Mr.Sushil Kumar Jha, Adv.
For the State	:	Mr.Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 18-01-2024 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

2. The petitioner seeks bail in connection with

Alinagar P.S. Case No. 26 of 2023 corresponding to G.R.

No. 102 of 2023, C.C.T.N.S. No. 5106056230026

registered for the offences punishable under Sections

366(A)/34 of the I.P.C. and later on Sections 8, 18 of the

POCSO Act Added.

3. As per prosecution case, petitioner along with

other is said to have kidnapped the informant's daughter on

the pretext of marriage.

4. Learned counsel for the petitioner submits that



petitioner is quite innocent and has not committed any offence as alleged in the FIR. He further submits that statement of victim under Section 164 of the Cr.P.C. clarifies that petitioner is not in any way connected with the alleged occurrence as victim at her own volition left her parental house and she has not levelled any allegation of forceful act by the petitioner. The victim also denied any relation with the petitioner. Learned counsel further submits that on the alleged date of occurrence the victim is major as the mark-sheet certificate issued by Bihar School Examination Board indicates that date of birth of the victim is 10.02.2005 and the alleged occurrence took place on 17.03.2023. In this way, the victim is aged about 18 years one month seven days on the alleged date of occurrence. Petitioner is in custody since 23.03.2023 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

5. Learned A.P.P. for the State opposes the prayer for bail of the petitioner.



6. Though name of learned counsel for the informant is appearing in daily cause list but he did not turn up before the court, for the reason best known to him.

7. Considering the facts and circumstances of the case as well as statement of victim under Section 164 of the Cr.P.C. where there is no allegation of inducement on the part of petitioner which compels the victim to leave her parental house, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (POCSO Act), Darbhanga in connection with Alinagar P.S. Case No. 26 of 2023 corresponding to G.R. No. 102 of 2023, C.C.T.N.S. No. 5106056230026 subject to following conditions:-

(i) One of the bailors shall be either father or



mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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