

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62043 of 2023

Arising Out of PS. Case No.-120 Year-2018 Thana- BARHIYA District- Lakhisarai

Prince Kumar @ Prince Verma S/O Nivas Verma R/O Village- Gangasari,
Ps- Barahiya, Dist.- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ajay Kumar S/O Late Vilayati Singh R/O Village- Jaitpur Ward No. 10, P.S.-
Barahiya, Dist. Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mrigendra Kumar, Advocate
		Mr. Mayank Bilochan, Advocate
For the Opposite Party/s	:	Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

CAV JUDGMENT

Date : 28.06.2024

1. Heard learned counsel for the petitioner and learned APP for the State. No one appeared on behalf of opposite party no. 2.

2. The petitioner has filed the instant application praying for quashing the order dated 24.6.2023 passed in POCSO Case no. 36 of 2018 (arising out of Barhiya P.S. Case no. 120 of 2018) whereby the learned Additional Sessions Judge-VI-cum-Special Judge POCSO Court, Lakhisarai has been pleased to reject the petition for discharge filed by the petitioner under section 227 of the Cr.P.C.

3. As per the prosecution case, the informant states that on 13.7.2018 at about 4:00 a.m his daughter was enticed



away by Ankit Verma for the purpose of marriage. It is stated that in the occurrence, Ankit Verma was assisted by his mother, father, his brothers, namely Ankur Kumar, Sumit Kumar and Amit Kumar as also his sister Chhoti Kumari and her husband. It is stated that the accused are guilty of taking away his minor daughter. In the conspiracy, the friends of Ankit Verma, namely Prince Kumar, the petitioner herein and Vikram Verma were also involved.

4. On the basis of statement of the informant given to the S.H.O, Barhiya, an F.I.R being Barhiya P.S. Case no. 120 of 2018 was registered under sections 366A and 120B of the Indian Penal Code to which section 8 of the POCSO Act was added subsequently.

5. It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case only on account of being the *gotiya* of co-accused Ankit Verma. The main thrust of allegation is not on the petitioner but on Ankit Verma. It is further submitted that the victim was medically examined by a Medical Board consisting of three doctors, with respect to her age. The Board came to the conclusion that she was between 16-18 years. Learned counsel for the petitioner in support of his contentions places reliance on



the order dated 31.5.2023 passed in S.B. Cr. Misc. (Petition) no. 3075 of 2023 by the learned Jaipur Bench of the Rajasthan High Court. The said order has been passed placing reliance on the order of the Rajasthan High Court in the case of Tarun Vaishnav vs. State of Rajasthan & Anr. [2022 SCC Online Raj 2237] which on being challenged in the Hon'ble Supreme court in SLP (Criminal) no. 1890 of 2023, leave to Appeal was refused by order dated 3.3.2023. It is finally submitted by learned counsel for the petitioner that from the allegations levelled in the F.I.R together with the material that has been transpired in course of investigation, no offence what-so-ever is made out so far as this petitioner is concerned.

6. The application is opposed by learned APP for the State.

7. Having heard learned counsel for the parties and having perused the material on record, it transpires that so far as the allegations in the F.I.R lodged by the informant i.e. father of the victim is concerned, it states about Ankit Verma along with the other members of his family which included his father, mother, brothers, sister and brother-in-law of having enticed away the informant's minor daughter for the purpose of marriage. The informant states that so far as the friends of Ankit



Verma are concerned i.e. the petitioner and Vikram Verma, they were also involved in conspiracy of his minor daughter being taken away for the purpose of marriage. The daughter of the informant returned and was medically examined by a Medical Board consisting of three doctors wherein her age was estimated to be 16-18 years. Her statement was recorded both under sections 161 Cr.P.C as also 164 Cr.P.C. In her statement under section 161 Cr.P.C, she states that on 13.7.2018 at about 3:00 a.m she left her house on her own free will and reached Barhiya station and along with Ankit Verma took a train and reached Patna. From Patna they proceeded to Delhi and from there to Panipath. She states that during this period, Ankit Verma forcibly established physical relations with her. Thereafter on coming to know about her father having lodged a case, they returned to Danapur and along with a relative of Ankit Verma reached the Court where she met her father and uncle (*mausa*). In her statement under section 164 Cr.P.C she states that on 13.7.2018 at about 3:00 a.m she ran away from her home. Ankit Verma had come near her house. They went to the Barahiya railway station and caught a train to Patna and thereafter proceeded to Delhi. She states that in their running away, the family members of Ankit Verma have no role to play. They did



not even know about the same. She further states that they remained in Delhi where they married and established physical relations.

8. So far as the petitioner is concerned, as per allegations in the F.I.R, he along with other accused mentioned therein were involved in inciting away the minor daughter of the informant for marriage with Ankit Verma. The informant states the age of his minor daughter to be 14 years. In her statement under section 164 Cr.PC, while the Court assessed the age of the victim to be 13 years, the victim discloses her age to be 14 years. As per the school record which has transpired during course of investigation the victim was less than 14 years on the date of occurrence. Even the Medical Board has assessed the age of the victim to be between 16-18 years. It is for these reasons that besides other sections charge-sheet has also been submitted under the POCSO Act. Further the victim in her statement under section 161 Cr.P.C and 164 Cr.P.C has clearly stated that the accused Ankit Verma forcibly established physical relations with her inspite of her protests. She further named this petitioner under section 164 of the Cr.P.C and states that he had talked to both Ankit Verma as also to her (victim).

9. In view of the facts and circumstances of the



case, the Court is of the opinion that the petitioner has not made out a case for discharge.

10. There is no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	1.05.2024
Uploading Date	02.07.2024
Transmission Date	02.07.2024

