

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65580 of 2022

Arising Out of PS. Case No.-5 Year-2021 Thana- SIKARPUR District- West Champaran

MOHAMMAD SERAJ AKHTAR @ MD. SERAJ AKHTAR @ MD. SAROJ
AKHTAR S/o Mohammad Gaffar akhtar @ Md. Gaffar Akhtar R/v- Ward No.
04, Bandpur, P.S.- Sikarpur, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Gupta, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

9 27-03-2024 1. 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,
366(A) of the Indian Penal Code, Sections 8 and 12 of the
POCSO Act and Section 3(1)(w)(i) of the SC/ST (POA) Act.

3. Learned counsel submits that from office report
dated 21.03.2024, it manifests that the same records that
registered cover notice has been received by family member of
the opposite party no. 2. It is further submitted that the name of
the family member of the opposite party no. 2 is not disclosed
which amply demonstrates that the family member who
received the notice on behalf of the opposite party no. 2
deliberately chose not to disclose his or her name.



4. Since it has been reported that registered cover notice has been received by family member of the opposite party no. 2 as such the notice is deemed to have been validly served.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated by the informant alleging that the victim a minor was kidnapped by the petitioner. Learned counsel further submits that the date of occurrence is 08.12.2020 and the FIR came to be instituted on 02.01.2021 that in itself demonstrates that the informant was aware that the victim was not kidnapped rather had eloped with the petitioner. It is next submitted that the victim is a major and she on her own volition left her house and eloped with the petitioner and thereafter they got married and out of the wedlock two children were born. It is also submitted that from the date of birth recorded on the Aadhaar Card of the victim, it would manifest that she is a major and even the investigating officer has found from the concerned school that the date of birth of the victim is 01.01.2002 whereas the date of occurrence is 08.12.2020. It is asserted and submitted that the victim and the petitioner are living together as husband and wife with their two children. It is thus submitted that this perhaps explains why the family



member who received notice on behalf of the opposite party no. 2 chose not to disclose his or her name. The reason was obvious that they only wanted to delay the proceeding.

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

7. In view of the aforesaid submissions, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Sikarpur P.S. Case No. 05 of 2021, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, it is made clear that the victim/opposite party no. 2 shall be at liberty to file an application seeking cancellation of the anticipatory bail granted to the petitioner if the victim/opposite party no. 2 is not married with the petitioner and is not staying with him.

(Satyavrat Verma, J)

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