

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73176 of 2024

Arising Out of PS. Case No.-450 Year-2022 Thana- DIGHA District- Patna

Nitish Kumar S/o Vidya Nand Singh R/o Murtuziganj Patna City, P.S.-
Mehandiganj, District- Patna, presently residing at Purani State Bank Colony,
Quarter No. 33, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sahil Kumar S/o Vishal Anand @ Vikash Anand R/o- Murtuziganj Patna
City, P.S.- Mehandiganj, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvnendra Kumar Thakur, Advocate
For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

8 25-04-2025 Heard Mr. Arvnendra Kumar Thakur, learned
counsel for the petitioner and Mr. Gauri Shankar Gupta, learned
APP for the State.

2. A report sent by Patna High Court Legal Services
Committee with regard to the need of legal assistance to the O.P.
No. 2 is perused and the same shows that in compliance of this
Court's direction dated 19.03.2025 the O.P. No. 2 was given an
opportunity of legal assistance if he wants but he denied to
accept the legal assistance.

3. The instant petition has been filed under Section
439(2) of the Code of Criminal Procedure (in short 'Cr.P.C.') for
cancellation of bail granted to the O.P. No. 2 vide order dated



16.03.2023 passed in Cr. Misc. No. 70788 of 2022 in connection with Digha P.S. Case No. 450 of 2022 registered for the offences punishable under Sections 447, 354, 354(B) and 509 of the Indian Penal Code and Section 8 of the POCSO Act.

4. Learned counsel for the petitioner submits that the main ground for cancellation of bail granted to the O.P. No. 2 is the subsequent occurrence committed by the O.P. No. 2 with the same victim for which Digha P.S. Case No. 447 of 2024 has been registered for the offences under Sections 87 and 96 of the B.N.S., 2023 and secondly, the O.P. misled the court in the hearing of Cr. Misc. No. 70788 of 2022 and succeeded to get the relief of bail in Digha P.S. Case No. 450 of 2022.

5. No submission is made by learned APP for the State.

6. Heard learned counsel for the petitioner and perused the order dated 16.03.2023 passed by this Court in Cr. Misc. No. 70788 of 2022 as also the case diary and FIR of Digha P.S. Case No. 447 of 2024. This Court finds no substance in the present petition as while granting the relief of bail to the O.P. No.2, this Court mainly took into account the young age, custody period, and fair and clean antecedent of the O.P. No. 2 and also the completion of investigation against him in Digha



P.S. Case No. 450 of 2022 and regarding these facts, I do not find any material to substantiate the petitioner's allegation that the O.P. No. 2 misled this Court at the time of deciding the Cr. Misc. No. 70788 of 2022. So far as the subsequent offences under Sections 87 and 96 of the B.N.S., 2023 for which Digha P.S. Case No. 447 of 2024 has been registered are concerned, I have perused the FIR, case diary of the said case and mainly the victim's statement recorded under Section 183 of B.N.S.S. The so-called victim did not make any allegation against the O.P. No. 2 in her statement recorded by the I.O. as well as the Judicial Magistrate. Though the victim girl is said to be below eighteen years of age but she clearly stated in her statement before the Judicial Magistrate that on 15.07.2024, there was an argument between her and her parents and then, she was ousted by her father from the house thereafter, she went to Kurji where she met O.P. No. 2 and from there, they went to Kumhrar etc. In the offence of kidnapping as well the offences under POCSO Act, the victim's evidence is considered to be the most important when there is no allegation of physical or sexual assault. Victim's statement recorded in connection with Digha P.S. Case No. 447 of 2024 as discussed above, *prima facie* goes in favour of the O.P. No. 2 and does not persuade this Court to



form the opinion that the O.P. has misused the privilege of bail granted to him vide order dated 16.03.2023 passed in Cr. Misc. No. 70788 of 2022 in connection with Digha P.S. Case No. 450 of 2022. Accordingly, there is no merit in the present application, so it stands dismissed.

(Shailendra Singh, J)

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