

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82338 of 2024

Arising Out of PS. Case No.-379 Year-2023 Thana- CHHAURADANO District- East Cham-
paran

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JUMMAN MIAN SON OF JASU MIYAN @ JASHU MIAN RESIDENT OF
VILLAGE- JITPUR, P.S.- CHHAURADANO, DISTT.- EAST CHAM-
PARAN

... .. Petitioner/s

Versus

1. The State of Bihar
2. SHAMSHA KHATOON WIFE OF KALIMULLAH RESIDENT OF VIL-
LAGE- KHAIRWA, P.O.- BELA CHAMAHI, P.S.- CHHAURADANO,
DISTT.- EAST CHAMPARAN

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Kumar Tiwari, Advocate
For the Opposite Party/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 18-06-2025 Heard learned counsel for the petitioner and learned

A.P.P. for the State but none appears on behalf of O.P. No.2.

2. The petitioner apprehends his arrest in a case registered
for the offences punishable under Section 363 and 366A/34 of
the Indian Penal Code and Section 8 of the POCSO Act.

3. The allegation in the first information report is that the in-
formant's daughter, aged about 17 years, went missing on
08.11.2023 and did not come back till late at night. It is alleged
that they came to know that the F.I.R. named five persons in-
cluding the petitioner had kidnapped her daughter for the pur-
poses of marriage.



4. It is submitted by learned counsel for the petitioner that the F.I.R. has been lodged after a delay of 36 hours and no explanation, much less plausible, has been tendered for the same inasmuch as the occurrence is said to have been taken place on 08.11.2023 and first information report came to be lodged on 10.11.2023. Further, on the same day, the victim was also recovered after the institution of the F.I.R. The statement of the victim was recorded under Section 164 Cr.P.C. A perusal of the statement of the victim would show that she was taken by the present petitioner and two other boys. The petitioner forcibly made her to sit on the motorcycle and took her to Hardiya and therefrom to Champapur to the house of his paternal aunt (*Bua*) and from there she was also being taken elsewhere. It appears from the statement of the victim that she has gone to various places along with the petitioner but she did not raise any alarm or cause any resistance in order to free herself and further there is no any allegation of any sexual assault upon the petitioner. The medical examination report of the girl also shows her age to be 18-19 years, hence no offence is made out under the POCSO Act. Even according to the first information report, her age is stated to be 17 years which is almost reaching the verge of majority.



5. Learned APP for the State opposed the prayer for bail.
6. Having regard to the facts and circumstances of the case and also the fact that the victim seems to be a major and there is no allegation of any sexual assault, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten 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 Chhauradano P.S. Case No. 379 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Soni Shrivastava, J)

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