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(2021) 03 PAT CK 0089

In the Patna High Court

Case No : Criminal Miscellaneous No. 31956 Of 2020

Ismayal Alam @ Sabu @ Sabu Alam Ismail — APPELLANT

Vs

State Of Bihar — RESPONDENT

Date of Decision : 09-03-2021

Acts Referred:
Indian Penal Code, 1860 — Section 34, 363, 366A
Code Of Criminal Procedure, 1973 — Section 164, 438(2)

Citation : (2021) 03 PAT CK 0089

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Dhannjay Kumar, Tapeshwar Sharma

Final Decision : Disposed Of

Judgement

1. Heard Mr. Dhannjay Kumar No. 2, learned counsel for the petitioner and Mr. Tapeshwar Sharma, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Sugauli PS Case No. 119 of 2020 dated 26.02.2020, instituted under Sections 363/366A/34 of the Indian Penal Code.

3. The allegation against the petitioner and others is of abducting the minor daughter of the informant.

4. Learned counsel for the petitioner submitted that the allegation is false. He drew the attention of the Court to the statement of the girl under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') in which she has stated that she on her own will had gone with the petitioner to Delhi and that she was in love with the petitioner and wanted to marry him but because the present case she has returned and further she has expressed her desire to live with the petitioner. Learned counsel submitted that most importantly, she has also stated that no wrong act has been done by the

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petitioner with her. It was submitted that the petitioner is a young person having no criminal antecedent.

5. Learned APP submitted that the girl was minor and the petitioner is an adult and it was his responsibility not to play with the life and future of the girl who is unable to comprehend the implications of such act.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Motihari, East Champaran in Sugauli PS Case No. 119 of 2020, subject to the conditions laid down in Section 438(2) of the Code and further that one of the bailors shall be a close relative of the petitioner. The petitioner shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

7. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

8. The application stands disposed off in the aforementioned terms.

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