

IN THE COURT OF ADDITIONAL SESSIONS JUDGE VITH -CUM-SPL. JUDGE POCSO, PATNA
Special No.- 313/2023

Akash Kumar Kushwaha

Petitioner

Versus

State of Bihar

Prosecution

Order with signature of the Court

**Sr.
No.**

Date

**Office
taken
Date** **Action/s
with**

12-02-2024

A bail application has been filed on behalf of petitioner namely **Akash Kumar Kushwaha**, who is in custody since 21.10.2023 in connection with Parsa Bazar P.S. Case No.434/2023 dated 05.09.2023 registered under Sections 363, 365 of IPC. A copy of the same has already been served to Learned Special PP for the State.

Heard Shri M. M. Kanhaiya, learned Counsel for the petitioner and Shri Suresh Chandra Prasad learned Special PP for the State.

The prosecution case, in short, is that on 18.08.2023 the informant's daughter, the victim girl went to her College but she did not return late evening then the informant tried his best to search her but she could not be traced out. Thus, on the basis of written complaint of the informant, the case was registered as specified against unknown.

Learned Counsel for the petitioner has submitted that the petitioner is innocent, committed no offence as alleged in the FIR and has falsely been implicated in this case by the informant. It has further been submitted that the earlier petitioner has filed regular bail which was transferred to the Court of learned Sessions Judge-5th, Patna which was later on dismissed as withdrawn on 03.01.2024 and thereafter he has not filed either anticipatory or regular bail either before this Court or Hon'ble Court prior to it. It has further been submitted that the petitioner has no criminal antecedents. It has further been submitted that actually the informant knows very well about his daughter that she has two or three boy friend to which he was intimated about his daughter's wrong activities and for this reason the informant falsely implicated to the petitioner to save his face and her daughter. It has further been submitted that from perusal of the written report as well as statement U/s 161 Cr.P.C. of the informant he discloses different story in his statement U/s 161 Cr.P.C. from his written report. It has further been submitted that the informant's daughter is a major girl and her age is above 19 years old at the time of alleged occurrence hence POCSO Act is not applicable in this case. It has further been submitted that the petitioner is in custody since 21.10.2023. The petitioner undertakes to furnish sound sureties as directed by this Court and is ready to abide by the terms and conditions as laid

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down by this Court and on these grounds, prayed for privilege of bail.

Learned Special PP has vehemently opposed the prayer of bail of the petitioner contending that the allegations against the petitioner are serious and grave in nature.

Perused the record. From perusal of the same, it appears that the petitioner is not named in the F.I.R. but during investigation the informant in his re-statement has stated that the petitioner-accused used to talk by his Mobile no.7999293320 with his daughter on her Mobile no.7856066322 and he is well confident that he fled away with his daughter. The other witnesses have also supported the version of informant during investigation. From perusal of the statement of the victim recorded under Section 164 of Cr.P.C., it transpires that the victim has supported the case of the prosecution and stated that the accused-petitioner lured her on false pretexts of marriage whereas he was also engage with other girls on facebook. It has been mentioned in the report submitted by the IO that the petitioner has no criminal antecedents. Cognizance in this case has also been taken under Sections 341, 323, 504, 363, 365 of IPC & Sec.8, 12 has been submitted against this petitioner.

In view of the above stated facts and circumstances of the case, considering the serious nature of the allegations, it is not just and proper to enlarge this petitioner on bail. Accordingly, bail application of the petitioner namely **Akash Kumar Kushwaha** is **rejected**.

The order is dictated and corrected by me.

Sd/.
A.D.J. VIth -cum- Excl. Spl. Judge POCSO, Patna
Dated:- 12.02.2024.