

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19621 of 2021**

Arising Out of PS. Case No.-239 Year-2020 Thana- PANCHRUKHI District- Siwan

JITENDRA MAHTO SON OF MUSAFIR MAHTO @ MOSAFIR PRASAD
R/O VILL- MAKHANUPUR, P.S- PACHRUKHI, DIST- SIWAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 15-12-2021 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner seeks bail in connection with Pachrukhi P.S.
Case no. 239 of 2020 registered for the offence punishable
under section 376D of the Indian Penal Code read with sections
4 and 6 of the POCSO Act.

Learned counsel for the petitioner submits that
petitioner is in custody since 11.10.2020 and charge sheet has
been submitted and has one antecedent as mentioned in para 3
of the bail petition. Learned counsel further submits that the
informant alleges that on 11.10.2020 at 6 p.m., when she had
gone to attend call of nature, this petitioner along with Rohit
Kumar came and caught her and thereafter both established
physical relation in turn and threatened if she discloses the



occurrence to anyone, they will viral her photograph on face book. Learned counsel submits that the victim herself is the informant and allegation is dated 11.10.2020 and on the same day at 10 p.m., she was medically examined and doctor did not find sign of recent sexual assault nor any injury over private part was found, learned counsel thus, submits that medical examination was done promptly and if two persons would have committed rape then definitely in the medical examination the same would have come. Learned counsel further submits that from perusal of para 37 of the case diary, it would manifest that victim in her statement recorded under section 164 Cr.P.C has stated certain fact which does not get corroborated by the allegation as alleged in the FIR rather in her statement under section 164 Cr.P.C victim has given an exaggerated version of the story.

Learned APP opposes the prayer for bail and submits that the victim is minor and there is direct allegation of committing physical assault by the petitioner along with Rohit Kumar but is not able to counter the submissions of learned counsel for the petitioner with respect to medical examination and the statement made under section 164 Cr.P.C rather learned APP very fairly submits that para 53 of the case diary does



record about medical examination that it was done promptly on 11.10.2020.

Considering the facts that petitioner is in jail custody , charge sheet has been submitted and medical examination does not corroborate rape, the petitioner is directed to be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the ADJ VI-cum- Special Judge, POCSO, Siwan in Pachrukhi P.S. Case no. 239 of 2020.

(Satyavrat Verma, J)

s.hassan/-

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