

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38985 of 2021**

Arising Out of PS. Case No.-854 Year-2020 Thana- SARAIYA District- Muzaffarpur

Abhinit Kumar @ Raja S/o Birendra Kumar Singh R/o Village - Ghataro Tola
Ramnagar, P.S. - Kartaha, District - Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Mandal

For the Opposite Party/s : Mr.Choubey Jawahar

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 15-11-2021 Heard learned counsel for the petitioner and learned
A.P.P for the State.

The petitioner seeks bail in Saraiya P.S. Case No. 854 of 2020, registered for the offence punishable under Section 363(A)/34 of the Indian Penal Code. Later on section 363, 366(A), 376 of the IPC and section 4/6 of the POCSO Act were added.

As per the prosecution case, this petitioner along with others are alleged to have kidnapped the minor daughter of informant. The victim girl in her statement recorded under Section 164 Cr.P.C. has stated that this petitioner committed rape with her.

It is submitted on behalf of the petitioner that petitioner has falsely been implicated in this case. There is



contradiction in prosecution story and statement of victim girl under Section 164 Cr.P.C. In fact, there is love affair between the victim girl and the petitioner. Moreover, the age of victim girl has not been determined as yet, therefore, no case under POCSO Act is made out. As per medical report, there is no sign of rape and no internal or external injury was found on the private part of the victim girl. Petitioner is in custody since 28.12.2021 having no criminal antecedent.

However, counsel for the informant vehemently opposed the prayer for bail and submitted that the victim girl in her 164 statement clearly stated that it was this petitioner who committed rape with her and the court below has also assessed her age to be 14 years.

In view of the statement of victim girl under Section 164 Cr.P.C, I am not inclined to enlarge the petitioner above-named on bail. Accordingly, the same is rejected.

(Prabhat Kumar Singh, J)

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