

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33141 of 2020

Arising Out of PS. Case No.-77 Year-2018 Thana- MAHILA PS District- East Champaran

BHUTAN SAHANI @ BHUSAN SAHNI @ BHUSHAN SAHNI Son of
Girdhari Sahni Resident of Village - Majurahan, Ward No. 6, P.S. -
Turkauliya, District - East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Madhurendra Kumar
For the Opposite Party	:	Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 11-01-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor appearing on behalf of the State.

This application for grant of regular bail arises out of
Motihari Mahila P.S. Case No. 77 of 2018, registered for the
offence punishable under Sections 341, 342, 376(D) 34 of the
Indian Penal Code and Section 4/6 of POCSO Act.

Three persons have been named in the First
Information Report, namely, Jitendra Sahani, Achaldeo Sahani
and Bhutan Sahani (this petitioner), who are said to have
overpowered the informant (a minor) and committed rape on
her. The date of occurrence has been described as 12.12.2018,
whereas the First Information Report has been registered on
21.12.2018 based on the written report submitted before the
police.



Learned counsel appearing on behalf of the petitioner has made two submissions. He has submitted that the manner, in which the occurrence is said to have taken place in the First Information Report, is highly improbable. He has secondly submitted that the Court of learned Additional District and Sessions Judge-I-cum-Special Judge (POCSO Act), East Champaran at Motihari, had allowed regular bail to co-accused Achaldeo Sahani by an order dated 02.12.2019 (Annexure-5), whereas the same learned Judge has rejected the petitioner's application for grant of regular bail on identical set of facts. He has further argued that the medical report does not support the case of the prosecution as narrated in the First Information Report.

Considering the fact that the petitioner is in custody since 14.02.2020 and the medical report does not support the case of the prosecution, coupled with the fact that there is considerable delay in lodging of the First Information Report, this application is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-I-cum-Special



Judge (POCSO Act), East Champaran at Motihari, in Motihari Mahila P.S. Case No. 77 of 2018.

Before I part with the present order, I consider it apt to observe that let both the orders passed in Motihari Mahila P.S. Case No. 77 of 2018, by the learned Additional District and Sessions Judge-I-cum-Special Judge (POCSO Act), East Champaran at Motihari, in the bail applications filed by Achaldeo Sahani and this petitioner be brought to the notice of Hon'ble Inspecting Judge of the Judgeship of East Champaran at Motihari.

(Chakradhari Sharan Singh, J)

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