

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No. 32981 of 2020**

Arising Out of PS Case No.-778 Year-2019 Thana- SAHARSA District- Saharsa

Nitish Sah, Male, aged about 28 years, Son of Vinod Sah, Resident of Village-  
Kharagpur, PS-Sonbarsa Kachahri, District-Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate  
For the State : Mr. Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN  
AMANULLAH**

**ORAL JUDGMENT**

**Date : 08-02-2021**

Heard Mr. Chandra Mohan Jha, learned counsel for the petitioner; and Mr. Md. Fahimuddin, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Saharsa Sadar (Sonbarsa Kachahari) PS Case No. 778 of 2019 dated 29.08.2019, instituted under Sections 376(a) (b)/511 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3. The allegation against the petitioner is that he tried to commit rape on the five years old daughter of the informant by



taking her on the pretext of collecting wood and had molested her and on cry raised he had fled away.

4. Learned counsel for the petitioner submitted that the allegation is false and due to local village politics, he has been implicated. It was further submitted that the forensic examination has not detected any semen. It was submitted that the petitioner is in custody since 30.08.2019. Learned counsel submitted that the doctor has not found any external injury on the body.

5. Learned APP submitted that there is no reason for false implication of the petitioner and most importantly, the victim herself before the Court has stated that the petitioner tried to outrage her modesty. Learned counsel submitted that even the forensic report has detected blood stain on the clothes worn by the petitioner and further that in the opinion of the doctor in the medical report though there is no external injury found on the body but there was superficial injury. It was further submitted that there is no reason for a five years old girl to make a false statement, that too, before the Court which had recorded the statement after following the due procedure prescribed of recording such statement to ensure that there was no tutoring.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

7. Accordingly, the application stands dismissed.

**(Ahsanuddin Amanullah, J.)**

Anand Kr.

|                 |  |
|-----------------|--|
| <b>AFR/NAFR</b> |  |
| <b>U</b>        |  |
| <b>T</b>        |  |

