

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.749 of 2021**

Arising Out of PS. Case No.-33 Year-2020 Thana- MAHILA P.S. District- Bhojpur

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GOLU PANDEY S/O KAMLESH PANDEY @ KAMLESH RAY R/O
VILLAGE KATHRAIN, PS CHARPOKHARI, DISTRICT BHOJPUR

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
		Mr. Amarendra Kumar, Adv.
For the Respondent/s	:	Mr Binay Krishna, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 08-04-2021 Heard learned senior counsel for the appellant and learned
Spl. PP for the State.

The instant appeal has been preferred by the appellant against the order dated 7.10.2020 passed by the learned Additional Sessions Judge VI, Bhojpur at Ara whereby the prayer for bail of the appellant in connection with POCSO Case no. 25 of 2020 arising out of Mahila P.S. Case no. 33 of 2020 registered under sections 376D, 506 and 34 of the Indian Penal Code, section 4 of the POCSO Act and sections 3(1)(r) (s) and w(i)(ii) and 3(2)(v) of the SC/ST(POA) Act, was rejected.

As per allegation in the FIR, on the point of pistol, the minor daughter of the informant was raped by three accused persons including the appellant herein.



It is submitted by learned counsel for the appellant that the appellant has been falsely implicated in the case. No such occurrence has taken place. For an occurrence alleged to have taken place on 25.4.2020, the FIR was registered after an unexplained delay of 4 days. The alleged victim girl is stated to be 16 year old, however, in the medical examination, not only the allegations in the FIR was not found to be true, but the daughter of the informant was also stated to be over 18 years of age. Thus, it is submitted that neither the medical report supports the allegations in the FIR nor any case under the POSCO Act would be made out. So far as co-accused Sheo Shankar Pandey is concerned, although in the FIR allegations are stated to be the same as the other accused, however case was not found to be true against him and final form was submitted. He was also enlarged on bail. The petitioner is in custody since 8.5.2020 i.e. for about a year and investigation in the case has concluded. He has no criminal antecedent.

The appeal is opposed by learned Spl. PP appearing for the State.

Having heard learned counsel for the parties and taking into consideration the direct allegations against the appellant of rape on the daughter of the informant in the FIR which is



supported by the witnesses in course of investigation, the Court is not inclined to allow the instant appeal and as such the same is rejected.

(Partha Sarthy, J)

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