

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10459 of 2022**

Arising Out of PS. Case No.-173 Year-2021 Thana- UDAKISHUNGANJ District-
Madhepura

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MANISH KUMAR Son of Sri Nand Kishore Sah @ Nand Kishor Kumar
Gupta Resident of Village- Rambagh, Ward No.04, P.S.- Udakishunganj,
District- Madhepura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Singh, Adv.

For the Opposite Party/s : Mr. Dr. Indihar Kumari, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 10-08-2022 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner seeks bail in a case registered for
the offence under Sections 376, 504 and 506 of the Indian
Penal Code and Section 4 of the Protection of Children From
Sexual Offences Act.

The petitioner is said to have established forceful
physical relation with the victim.

Learned counsel appearing for the petitioner
submits that the petitioner, who is of clean antecedent, is
innocent and has falsely been implicated in this case.
Learned counsel appearing for the petitioner submits that
the petitioner, who is of clean antecedent, is innocent and



has not committed any offence. In fact, the alleged occurrence took place on 08.06.2021 whereas the F.I.R. has been filed on 10.06.2021 after lapse of two days without explaining the plausible delay which creates doubt over the prosecution version. Moreover, the doctor who has examined the victim does not opine that he has found any sign of intercourse on the person of the victim. Besides that the victim is a married lady and she happens to be major this fact has fully been corroborated with the statement of victim recorded under Section 164 Cr.P.C. Therefore, no case under Section 376 of the Indian Penal Code is made out against the petitioner. The petitioner is rotting in custody since 11.06.2021.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submitted that the victim in her statement recorded under Section 164 Cr.P.C. clearly stated that the petitioner has committed rape upon her and during the medical examination of the victim, the medical Board assessed the age of the victim between 12-14 years which itself sufficient to show that the victim is a minor girl. Therefore, the prima facie case is made out against the petitioner and that too has been supported by the statement



of the victim itself, therefore, the petitioner may not be enlarged on bail at this stage.

Considering the facts and circumstances of the case and the rival submission of the parties, this Court is not inclined to grant the privilege of bail to the petitioner at this stage. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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