

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.20922 of 2021**

Arising Out of PS. Case No.-296 Year-2020 Thana- TRIVENIGANJ District- Supaul

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Brajmohan Kumar, S/o- Pankaj Choudhary, Resident of Village-  
Babhangama, Ward No.09, P.S.- Trivenganj, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Murari Narain Chaudhary, Advocate

For the Opposite Party/s : Mr.Amitesh Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE A. M. BADAR**

ORAL ORDER

6      19-01-2022                      The applicant/accused in Crime No. 296 of 2020  
  
(POCSO Case No. 61 of 2020) registered with Triveniganj  
  
Police Station for the offences punishable under Sections 376,  
  
504 and 506 r/w Section 34 of the Indian Penal Code as well as  
  
Sections 4 and 17 of the POCSO Act and Sections 3(i)(r), 3(2)  
  
(v) of the SC/ST Act at the instance of first informant Kiran  
  
Devi, by this application is seeking his release on bail during  
  
pendency of the trial.

Heard the learned counsel appearing for the  
  
applicant/accused. He submits that the applicant is a young  
  
boy of 23 years of age. The subject matter of the instant crime  
  
seems to be love affairs between the parties. The applicant is  
  
behind the bars since long and therefore, the applicant is  
  
entitled to be released on bail.



The learned Additional Public Prosecutor opposed the application by contending that the offence is serious.

I have considered the submissions so advanced and also perused the case diary.

The FIR of the subject crime is lodged by mother of the victim female child. She, on the basis of information received by her from the victim female child has reported that co-accused Gunjan Devi had enticed her daughter – surviving female child on the pretext of accompanying her for natural call in the intervening night of 07.10.2020 and 08.10.2020. Thereupon, it is reported that the applicant had taken the victim female child and committed penetratingly sexual assault on her.

The victim female child in her statement recorded under Section 164 of the Cr.P.C. has reported her age as 15 years. Similar is the evidence regarding her age found in the FIR. Medical report of the victim female child shows that her hymen was not intact and her cervix was red. The medical board as determined her age as 17 to 19 years but it is well settled that there is possibility of error of two years on either side in such determination of the age. Moreover this is not the stage at which the age of the victim can be determined. The



ocular evidence shows that the victim is a female child. No case for grant of bail to the applicant/accused is made out. Accordingly, the present application is rejected.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

Bhardwaj/-

**(A. M. Badar, J)**

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