

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31511 of 2021**

Arising Out of PS. Case No.-18 Year-2021 Thana- CIVIL LINE District- Gaya

Md Perwez @ Perwez Khan @ Md Prawez S/O Md. Nizam @ Md.  
Nezamuddin R/O Mohalla- New Karimganj, P.S.- Civil Lines, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                                                   |
|--------------------------|---|-------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Vikram Deo Singh, Advocate<br>Mr. Binod Kumar Sinha, Advocate |
| For the Opposite Party/s | : | Mr. Md. Mushtaque Alam, APP                                       |
| For the Informant        | : | Mr. Nafisuzzoha, Advocate                                         |

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

7      17-05-2022                      The applicant/accused in POCSO Case No. 5 of 2021, arising out of Crime No. 18 of 2021 registered with Civil Lines Police Station, for the offences punishable under Sections 506, 376, 354(D) of the Indian Penal Code as well as under Sections 4, 6, 8 and 12 of the POCSO Act, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that the alleged victim of the crime in question is not below 18 years of age and medical evidence shows that she is not a child. It is further argued that the relationship between the parties, as seen from the material on record, was consensual.

The learned Additional Public Prosecutor opposed



the application by contending that the victim of the crime in question has supported the prosecution case.

It is unfortunate to note that the Investigating Officer has not collected the documentary proof regarding the age of the victim of this offence.

The learned counsel for the first informant, who is present before the Court, has stated that the victim female child was born on 14.11.2003 and to that effect matriculation certificate is available with the first informant. The Investigating Officer has failed in his duty to collect the matriculation certificate of the victim female child and, therefore, this Court intends to send a copy of this order to the concerned Senior Superintendent of Police for taking necessary departmental action against the Investigating Officer who failed to perform his duty by properly investigating the subject crime.

Be that as it may, the offence was registered on the basis of the report lodged by father of the victim female child on 06.01.2021. He reported that he had engaged the applicant as driver on his four-wheeler vehicle and was treating the applicant as member of the family. The first informant further reported that taking advantage of this liberal attitude of the



first informant, the applicant had enticed his minor female child aged about 17 years and had indulged in penetrative sexual assault on her on 12.06.2019. The first informant further reported that the applicant had taken obscene photographs of this act in his cellphone and had made those photographs viral. The victim of the crime in question is categorically stating so in her statement to police. It is seen that the Investigating Officer had collected those obscene photographs.

In this view of the matter, **no case for grant of bail to the applicant/accused is made out.** The application is rejected.

A copy of this order be sent to the Senior Superintendent of Police, Gaya, for taking action against the Investigating Officer for his failure to discharge the duty of collecting documentary evidence regarding age of the victim female child.

Registry to comply it accordingly.

The Senior Superintendent of Police, Gaya, is directed to submit action taken report in that regard to this Court within two weeks from today, failing which this Court will take suitable action against the Senior Superintendent of Police,



Gaya.

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.

(A. M. Badar, J)

Mkr./-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

