

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.37110 of 2021**

Arising Out of PS. Case No.-404 Year-2020 Thana- PAKARIBARAW District- Nawada

Dharmendra Kumar @ Suman Son Of Arun Yadav Resident of Village- Aruri,  
P.S.- Pakribrawan, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                        |
|--------------------------|---|----------------------------------------|
| For the Petitioner/s     | : | Mr. Yogesh Chandra Verma, Sr. Advocate |
| For the Informant        | : | Mr. Ram Sumiran Rai, Advocate          |
| For the Opposite Party/s | : | Mr. APP                                |

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
ORAL ORDER

5      11-01-2022                      Heard Shri Yogesh Chandra Verma, learned senior  
counsel for the petitioner, Shri Ram Sumiran Rai, learned  
counsel for the informant and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with  
Pakribrawan P.S. Case NO. 404 of 2020 instituted for the  
offences under Sections 376 (A and B) of the Indian Penal Code  
read with Section 4 of the Protection of Children from Sexual  
Offences (POCSO) Act.

Learned counsel for the petitioner submits that the  
petitioner is in custody since 26.12.2020, is a person with clean  
antecedent and charge-sheet has been submitted in the case.

Learned senior counsel for the petitioner submits that  
allegation as alleged in the F.I.R. is that the informant alleges



that her minor daughter aged about eight years on 30.11.2020 went to see a *barat* and travelled upto a school and when she returned she was crying and disclosed that a boy aged in between 15 - 18 years committed rape, on account of which she was bleeding from her private parts and even her *pyjama* had blood stains. Accordingly, the victim on 01.12.2020 was taken to Nawada for treatment and on 02.12.2020, the case was instituted.

Learned senior counsel for the petitioner submits that petitioner has been falsely implicated in the case, he is neighbor and as far as the issue of identification of the petitioner by the victim is concerned, as would appear from her statement made under section 164 Cr.P.C., it would manifest that the police had shown the photograph of the petitioner to the victim and she stated that she identified the accused. Learned senior counsel submits that the victim was a tutored witness and police has falsely implicated the present petitioner.

Learned counsel for the informant submits that the manner in which the occurrence was committed was very brutal as it has come in paragraph '183' of the case diary that the victim has been operated twice and one more operation is still to be done at PMCH. It is further submitted that paragraph '104' of



the case diary records injury report which substantiates rape, further paragraph '116' of the case diary records that villager disclosed that the petitioner committed the occurrence and from perusal of paragraph '120' of the case diary, it would manifest that the CD which was seized and from perusal of the same it transpired that the description given by the victim of the accused matched with the petitioner. Learned counsel further submits that paragraph '143' of the case diary records that petitioner was using mobile number '9135676418' which is in the name of his mother and on the date of occurrence the tower location was at the place of occurrence but after institution of the case, the petitioner fled and started staying at Nawada and the phone was switched off.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that during the course of investigation the circumstances clearly points towards the petitioner that he was the preparator of the crime, further the victim also identified the petitioner based on his photograph shown by the police and it cannot be presumed that a minor aged about eight years would falsely implicate someone, considering the brutality with which the offence was committed



the Court is not inclined to grant bail to the petitioner. His prayer for bail is thus rejected.

(Satyavrat Verma, J)

Rishi/-

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