

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46455 of 2021**

Arising Out of PS. Case No.-207 Year-2020 Thana- SALAKHUA District- Saharsa

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KRISHN KUMAR @ KRISHAN KUMAR S/o BINDESHWARI MUKHIA
R/o VILLAGE-KACHRA, WARD No. 8, P.S-SOUR BAZAR, DISTRICT-
SAHARSA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Kamal Kishore Singh
For the Opposite Party/s	:	Mr.Jagdhari Prasad
For the informant	:	Mr. Shekhar Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 06-01-2022 Heard the learned counsel for the petitioner, the

learned APP for the State and learned counsel for the informant,

through Video Conferencing.

The petitioner seeks bail in connection with Salkhua
P.S. Case No.207 of 2020 dated 10.09.2020, registered under
Section 363, 366(A) and 34 of the Indian Penal Code and later
on Section 376 of the IPC was added.

The learned counsel for the petitioner submits that the
petitioner is in custody since 27.03.2021, he is a person with
clean antecedent, charge-sheet has been submitted in this case.

The learned counsel for the petitioner submits that
from perusal of the F.I.R., it would manifest that the informant
alleges that his minor daughter was kidnapped by the petitioner

with the help of 10 named accused persons including female.

The learned counsel for the petitioner submits that the daughter of the informant and this petitioner were in love and thus she eloped but when she came back under her parental pressure, she in her statement under Section 164 of the Cr. P.C. disclosed that this petitioner established physical relation with her. Further, that the victim disclosed her age as 18 years in her statement under Section 164 Cr.P.C. The learned counsel for the petitioner further submits that in the FIR, the informant alleges that his daughter was a minor but since the victim was a major, as such, the victim before the Court disclosed her correct age only to show that she was major and had gone willingly with the petitioner but for the parental pressure, she made the statement that this petitioner committed rape upon her.

The learned counsel further submits that the victim was medically examined and the doctor also assessed her age in between 17 to 19 years and no internal injury was seen. Further, it is also recorded although UPP is negative and Sperinatozoa is not found whether sexual assault occurred neither can be confirmed nor denied. The report also record no injury over external genitalia. No discharge or bleeding from genitalia.

The learned counsel submits that it absolutely does

not stand to reason that when there was no external or internal injury over the body of the victim nor any Sperinatozoa was found then also the doctor has recorded a dichomatic opinion that whether sexual assault occurred or not cannot be confirmed nor denied.

The learned counsel for the informant vehemently opposes the bail application and submits that in the FIR, the victim is said to be a minor and she in her statement has stated that this petitioner committed rape, as such, the allegation against this petitioner is of committing rape upon a minor but is not able to meet the submission of the learned counsel for the petitioner that the victim in her statement recorded under Section 164 of the Cr. P.C. has herself disclosed her age as 18 years. Further, the learned counsel for the informant submits that since he is not in possession of the medical report of the victim, as such, he is not in a position to make any submission with regard to that.

Be that as it may, considering the fact that petitioner is in custody since 27.03.2021, he is a person with clean antecedent, charge-sheet has been submitted in this case and the medical report clearly records that there is no external or internal injury over genitalia, as such the petitioner, above-

named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-IVth, Saharsa, in connection with Salkhua P.S. Case No.207 of 2020 dated 10.09.2020.

The application stands allowed.

(Satyavrat Verma, J)

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