

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47015 of 2021**

Arising Out of PS. Case No.-42 Year-2021 Thana- DANDARI District- Begusarai

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Kundan Kumar S/O Bishnudev Das R/O Village- Rajopur, P.S.- Dandari,
District- Begusarai

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Ashok Kumar
For the Opposite Party/s :	Mr. Sanjay Kumar Tiwary
	Mr. Rajiv Ranjan Kr. Pandey
	Mr. Mukesh Kumar

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 12-01-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State through
video conferencing.

The petitioner seeks bail in connection with POCSO
Case No.35 of 2021 arising out of Dandari P. S. Case No.42 of
2021, instituted for the offences under Sections 376 of the
Indian Penal Code and Section 4 and 8 of the POCSO Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 06.05.2021, he is a person with
clean antecedent and charge-sheet has been submitted in the
case.

The learned counsel for the petitioner submits that the
informant alleges that her minor daughter was raped by the
petitioner.

The learned counsel for the petitioner submits that



petitioner and the victim were in love and the same was being objected by the family members of the victim and the victim had called the petitioner in absence of her parents and when parents came, the present false case came to be instituted as would be evident from injury report Annexure-3 to the petition, which records no injury found on body, no seminal fluid found on genitalia and thigh, no injury on genitalia, hymen old torn and healed, spermatozoa not found and the age of the victim is assessed in between 17-18 years.

The learned counsel for the petitioner, thus, submits that if what has been alleged in the F.I.R. and since the medical was done promptly, as such, if rape would have been committed, the same would have found mentioned in the injury report of the victim. The learned counsel submits that even the victim is assessed in between 17-18, as such, POCSO Act is not attracted and the benefit should come to the accused as the victim has been assessed in between 17-18 years.

The learned counsel for the informant vehemently opposes the bail application and submits that victim is aged about 17 years and in her statement under Section 164 of the Cr.P.C., she has stated that she was raped, on which the learned counsel for the petitioner submits that it was under parental



pressure that the victim made such statement against the petitioner when the same does not get corroborated even remotely by the injury report. The learned counsel for the informant is not able to meet the submission of the learned counsel for the petitioner regarding the injury.

The learned A.P.P. for the State opposes the bail application.

Considering the fact that the petitioner is in custody since 06.05.2021, he is a person with clean antecedent, charge-sheet has been submitted in the case and the injury report does not corroborate the allegation even remotely, 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 Additional Sessions Judge-VI-cum-Special Judge, POCSO, Begusarai in connection with Dandari P. S. Case No.42 of 2021.

The application stands allowed.

(Satyavrat Verma, J)

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