

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47761 of 2021**

**In
CRIMINAL APPEAL (SJ) No.2744 of 2021**

Arising Out of PS. Case No.-16 Year-2020 Thana- MAHILA P.S BAGHA District- West
Champaran

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SURAJ KUMAR @ SURAJ SAH, S/o BALI SAH R/o VILLAGE-
KOTRAHA, P.S-VALMIKINAGAR, DISTRICT-WEST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

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

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

7 03-02-2022 Heard the learned counsel for the petitioner and the

learned APP for the State. No one appears on behalf of the

informant. The learned counsel for the informant did not appear

in the case on 01.02.2022 and then again on 02.02.2022.

The petitioner seeks bail in connection with Bagaha
(Mahila) P.S. Case No. 16 of 2020, instituted for the offences
under Sections 341, 323, 376, 313, 506/34 of the Indian Penal
Code and Section 4 of POCSO Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 29.01.2021, he is a person with
clean antecedent, charge-sheet has been submitted.

The learned counsel for the petitioner further submits



that the informant alleges that her minor daughter worked in the house of of Praduman Sharma and wife of Praduman Sharma, namely, Premsheela Devi, got her raped by Suraj Kumar (petitioner), son of tractor driver of Praduman Sharma. It is further alleged that her daughter became pregnant and Praduman Sharma and Premsheela Devi and Suraj Kumar got her pregnancy of five months terminated and thereafter the victim disclosed the occurrence to the informant and when she was going to institute an FIR, the Sarpanch along with other asked her to settle the dispute in Panchayat on which she objected, then they assaulted.

The learned counsel for the petitioner submits that petitioner has been falsely implicated in this case, it is further submitted that apart from a vague statement made in the FIR that the victim is a minor, no documentary evidences on record has been brought to establish her minority. Learned counsel further submits that doctors have assessed the age of the victim to be in between 18-19 years. The learned counsel further submits that it absolutely does not stand to reasons that Premsheela Devi would have got the victim raped by this petitioner, who is a tractor driver of her husband. The learned counsel further submits that it also seems very improbable to



believe that if the victim was carrying pregnancy of five months then why the same was not noticed by the informant, further, the FIR is completely silent as to when the victim disclosed to the informant about the occurrence. The learned counsel further submits that the fact that the FIR does not disclose the name of the doctor, who terminated pregnancy also creates doubt with regard to veracity of the allegation. The learned counsel further submits that even the injury report does not corroborate rape and during the course of investigation at para 145 of the case diary, it has come that the victim and Suraj were very close, thus, it is submitted that to create pressure on Suraj, the present false case by way of afterthought came to be instituted.

Learned A.P.P. opposes the bail application.

Considering the fact that petitioner is in custody since 29.01.2021, he is a person with clean antecedent, charge-sheet has been submitted and the doctors have assessed the victim to be in between 18-19 years and the injury report does not corroborate rape, 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 District and Session Judge 7th-cum-Special Judge (POCSO), Bettiah,



West Champaran, in connection with Bagaha (Mahila) P.S. Case
No. 16 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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