

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52593 of 2021**

Arising Out of PS. Case No.-432 Year-2019 Thana- BAIRIYA District- West Champaran

SANTOSH YADAV @ SANTOSH KUMAR SON OF SRI ANANDI
YADAV RESIDENT OF VILLAGE- BAIRIYA, P.S.- BAIRIYA, DISTRICT-
WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

3 10-05-2022 Heard learned counsel for the parties.

Let the defect(s), if any, be removed within four
weeks.

The petitioner is in judicial custody in connection
with Bairiya P.S. Case No. 432 of 2019 registered under
Sections 376, 511 and 448 of the Indian Penal Code and Section
8 of the POCSO Act, 2012.

On 11.12.2019, at about 11 p.m., in the night while
she was sleeping at her house, her co-villager, Santosh Yadav
entered into her house through roof from back side and started
untie string of her pant and when he was about to touch her
breast with intention to commit rape on her. In the meantime,
her mother came running from the adjacent room and caught



hold of him but he succeeded in fleeing away leaving his 'shawl' and when he was chased by her mother and brother, he entered into the house of his uncle Bhadur Yadav. In this way, the present First Information has been lodged and the investigation was taken up.

Learned counsel for the petitioner submits that although the police after investigation has submitted Final Report No. 507/2019 on 31.12.2019 differing from the same, the learned Court below took cognizance of the offences under Sections 376 and 511 of the Indian Penal Code and Section 8 of the POCSO Act on 3rd of August, 2020. He further submits that a bare perusal of the First Information Report would show that no case under Section 376 of the Indian Penal Code is made out. He further submits that the victim girl gave her statement under Section 164 of the Cr.P.C. wherein she has made a statement different to that in the First Information Report. He lastly submits that the petitioner is in jail since 20.03.2021 and is a young man of 25 years age having a long future and as such he may be released on bail.

Considering the aforesaid facts including that the statement of the victim girl differs from the First Information Report lodged by the informant; charge-sheet has already been



submitted and the petitioner is in jail since 20.03.2021, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of 7th Additional Sessions Judge-cum-Special Judge, POCSO Act, West Champaran at Bettiah in connection with Bairiya P.S. Case No. 432 of 2019.

The bail application is allowed with the aforesaid observations.

(Rajiv Roy, J)

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