

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14711 of 2023**

Arising Out of PS. Case No.-175 Year-2019 Thana- BHAGWANPUR District- Vaishali

VIJAY SAHANI S/O RAMJINISH SAHANI @ DINESH SAHANI R/o-
Gurmiya, P.S.- Kartaha, District- Vaishali R/v- Wafapur Banthu, P.S.-
Bhagwanpur, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Adv.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 03-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Bhagwanpur P.S. Case No. 175 of 2019 registered for the
offence under Sections 341, 323, 376, 379 and 34 of the
Indian Penal Code and later on Section 4, 8 and 12 of the
POCSO Act.

The petitioner and other co-accused alleged to
have committed rape upon the grand daughter of the
informant.

Learned counsel appearing for the petitioner
submits that the petitioner, who is of clean antecedent, is
innocent and has falsely been implicated in this case. He



further submits that the allegation, as alleged in the F.I.R., is false and fabricated and the petitioner has not committed any offence. He further submits that the allegation does not get support from the medical evidence. Moreover, the co-accused, namely, Bihari Sahni against whom also identical allegations as that of the petitioner have been leveled has already been granted bail by a co-ordinate Bench of this Court vide order dated 05.06.2020 passed in Cr. Misc. No. 7100 of 2020. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 23.12.2022.

Learned A.P.P. for the State on the basis of material available on record and the case diary opposed the prayer for bail of the petitioner and submits that there is direct allegation of commission of rape upon the victim against the petitioner. He further submits that the statement of the victim was recorded under Section 164 Cr.P.C. in which she has categorically stated that the petitioner along with co-accused, Bihari Sahani, have committed rape upon her after taking her away forcefully in the field while she was sleeping in her house. He further submits that the victim has also



been medically examined and the doctor has opined her age between 14-16 years which established that the victim was minor at the time of occurrence. He further submits that so far as opinion of doctor with respect of sign of commission of rape is concerned, it would be pertinent to mention here that the medical examination appears to have been done on 19.07.2019 and the occurrence took place on 17.01.2019 which shows that the victim has been examined after six months of date of occurrence, therefore, sign of recent sexual assault could not be ascertained by the doctor.

Considering the facts and circumstances of the case and specific allegation of commission of rape upon the minor victim is attributed to the petitioner, this Court is not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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