

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.18085 of 2022**

Arising Out of PS. Case No.-571 Year-2018 Thana- SARAIYA District- Muzaffarpur

MITRANJAN PASWAN, Son of Late Mahesh Paswan @ Late Bhawash Paswan, Resident of Village- Bahilwara Rupnath, P. S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate  
Mr.Ajay Kumar Tiwary, Advocate  
For the Opposite Party/s : Mr.Anita Kumari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

5      18-01-2023                      Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks bail in connection with Saraiya P.S. Case No. 571 of 2018 registered for the offence punishable under Sections 366, 366(A), 376 and 34 of the Indian Penal Code.

Informant has alleged that his daughter had gone to school and did not return. He has lodged the FIR wherein the petitioner along with four others has been named as being the persons who most likely would have taken away the informant's daughter.

Learned counsel for the petitioner submits that it is alleged that the daughter of the informant has been missing since 17.11.2018. The FIR, however, has been lodged after 13 days on 01.12.2018, delay itself is suggestive of the false implication as an after thought. Apart from that, it is submitted that the victim herself has filed a petition in the Court below, copy of which has been enclosed with the bail application, wherein she has stated about going with the petitioner on her own volition. In the petition she has claimed to be 19 years old and a married person. The petition further states that the



same may be treated as a statement under Section 164 Cr.P.C.. However, subsequently, statement of the victim has again been recorded under Section 164 Cr.P.C. wherein she has given a totally different version stating that she was administered some intoxicant and after she passed out she was taken away from the State and subsequently she has been set free. She, however, has stated that the petitioner has forced himself upon her, but the allegation is not specific rather it is ambiguous. It is also stated that the petitioner has no antecedents and he is in custody since 22.01.2021. It is also submitted that other co-accused persons Dharmendra Paswan in *Cr. Misc. No. 19851 of 2019*, and Chandan Paswan and Chanchal Paswan in *Cr. Misc. No. 27273 of 2019* have been allowed bail.

Learned APP for the State has opposed the prayer for bail. She has submitted that in the statement under Section 164 Cr.P.C. the victim has named the petitioner.

Considering the rival submissions, material on record including the petition filed by the victim as well as her subsequent statement under Section 164 Cr.P.C., which are at variance, and the petitioner's clean antecedents, viewed with the delay in lodging of the FIR in the background, this Court is inclined to allow the petitioner's prayer for bail; also on the grounds of parity.

Prayer for bail of the petitioner is allowed.

Let the petitioner, above named, 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 the learned Additional Sessions Judge 7<sup>th</sup>-cum-Special Judge, POCSO Act, Muzaffarpur, in connection with Saraiya P. S. Case No. 571 of 2018, subject to the following conditions:-

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also



undertake to inform the Court if there is any change in the address of the petitioner.

(ii)That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner’s counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

**(Madhuresh Prasad, J)**

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