

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26052 of 2023**

Arising Out of PS. Case No.-46 Year-2023 Thana- BOCHAHAN District- Muzaffarpur

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Garib Kumar Alias Garibnath Sahani Son Of Ganesh Sahani Resident Of
Village-Mishraulia, P.S.-Bochahan, District-Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Yashraj Bardhan, Advocate
For the Opposite Party/s : Mr.Uday Pratap Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 24-05-2023 Learned counsel for the petitioner is permitted to

remove defect (s), as pointed out by the office, if any, within a

period of four weeks on resumption of physical mode.

Heard learned counsel for the petitioner and learned
A.P.P for the State.

The petitioner has preferred this application for grant
of regular bail in connection with Bochahan P.S. Case No. 46 of
2023 dated 28.01.2023 registered for the offence punishable u/s
376 of the Indian Penal Code.

As per the prosecution case, the petitioner is alleged
to have committed rape on the minor daughter of the informant.

Learned counsel for the petitioner has submitted that
the petitioner is innocent and has falsely been implicated in this
case due to land dispute. Nothing has been recovered from the



conscious possession of the petitioner. Learned counsel further submitted that the petitioner did not commit rape on the informant's daughter and learned counsel further submitted that the victim refused to go under medical examination. Learned counsel further relied on the Judgment of **(C.R.A 269 of 2019) Subrata Pradhan Vs. State of West Bengal & Anr**, "*where the victim denied to have examine medically and in absence of any medical examination of victim the benefit of doubt could go in the favour of the accused*". The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 28.01.2023.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

Considering the aforesaid facts and circumstances of the case as well as the period of custody and the argument advanced by learned counsel for the petitioner, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Muzaffarpur in connection with Bochahan P.S. Case No. 46 of 2023, with the condition :-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable



cause, the bail bonds of the petitioner is liable to be cancelled.

The application stands allowed.

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(Chandra Prakash Singh, J)

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