

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41249 of 2022

Arising Out of PS. Case No.-5 Year-2022 Thana- BUDHUCHAK District- Bhagalpur

RAJ BALI KUMAR Son of Mangal Mandal Resident of Village- Naya Nagar
Ranidiayara, P.S. Budhuchak, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 03-04-2023 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the office within one

month.

Heard learned counsel for the petitioner as well as

Sri Shailendra Kumar, the learned APP for the State.

In this case, the petitioner is seeking regular bail in

connection with Badhuchak P.S. Case No. 5 of 2022, registered

for the offences punishable under Sections 376 of the Indian

Penal Code and Section 4 of the POCSO Act.

As per allegation, when the informant who is

mother of the victim was not present in her house, the petitioner

came there and committed rape upon her daughter.

The learned counsel for the petitioner has submitted



that he is innocent and a person of clean antecedent. He is under custody since 12.03.2022. Learned counsel has submitted that as per medical report the age of the victim is 17 years. Though, she is technically minor but she is on the verge of majority. He has further submitted that the act alleged was not coercive it was consensual as there is nothing in the FIR which shows that the alleged victim has opposed the petitioner.

On the other hand, Sri Shailendra Kumar, the learned APP has opposed the prayer for bail and submitted that the victim in her statement recorded under Section 164 of the Cr.P.C. has corroborated the occurrence. She has stated that the accused committed rape upon her and even when she was driving him away, he was not fleeing away.

Considering the clean antecedents as well as the period of detention which is more than a year, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (POCSO)-cum-VIIth, Additional District and Sessions Judge, Bhagalpur in connection with Budhuchak P.S. Case No. 5 of 2022, subject to the following conditions:-

- (i) The petitioner shall physically present on each



and every date of trial till framing of the charges. In case of failure, the learned court below will be at liberty to cancel the bail bond of the petitioner.

(ii) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(iii) If the petitioner is found involved in future in the similar type of offence, the prosecution will have liberty to file an application before the court below for cancellation of the bail of the petitioner and the learned court below will take decision in accordance with law.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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