

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42314 of 2023

Arising Out of PS. Case No.-183 Year-2022 Thana- BATHNAHA District- Sitamarhi

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JITENDRA JHA son of Sahdeo Jha Village- Madhopur Ps- Bathnaha Dist-
Sitmarhi

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Subodh Kumar

For the Opposite Party/s : Mr.Jai Narain Thakur

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

ORAL ORDER

4 08-09-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Bathnaha P.S. Case No. 183 of 2022 dated 12.07.2022 registered for the offences punishable u/ss 341, 342, 377, 506 of the Indian Penal Code and Sections 6, 8 and 12 of the POCSO Act.

3. As per the prosecution case, the petitioner is alleged to have committed an unnatural offence upon the informant's nephew, who is 7 years old.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Nothing incriminating material has been recovered from the conscious possession of the petitioner. As per the report of the medical board, the doctor has opined that no spermatozoa was found and it is very difficult to say about any anal sexual assault happened or not. This fact creates serious doubt upon the prosecution case. It is further submitted that the Section 377 of the I.P.C. has been declared violative of Articles 19(1)(a) and 21 of the Constitution and *ultra vires* by a five Bench in ***Navtej Singh Johar vs. Union of India*** AIR 2018 SCW 4321. The petitioner has clean antecedent as stated in para 3 of the bail petition. The offences under POCSO Act is not made out against the petitioner. The petitioner is in custody since 15.07.2022.

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

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, 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, Sitamarhi in connection with Bathnaha P.S. Case No.
183 of 2022.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Alok Verma/-

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