

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11416 of 2021

Arising Out of PS. Case No.-24 Year-2019 Thana- MAHILA PS District- Gaya

SANTOSH KUMAR Son of Sudarshan Paswan Resident of Village-
Mishrichak, P.S.- Gurua, Distt- Gaya.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Gita Devi D/o Munni Paswan Resident of Village- Mishrichak, P.S.- Gurua,
Distt- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra,
For the Opposite Party/s : Mr. Mrityunjay Kumar Nirala, APP

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

ORAL ORDER

2 13-09-2023 Heard the learned counsel for the petitioner as well as
learned APP for the State.

2. Learned counsel for the petitioner has challenged
the order dated 09.09.2020, passed by the Special Judge
(POCSO Act), Gaya, whereby his petition under Section 227 of
the Cr.P.C for discharge was rejected.

3. Learned counsel has further submitted that as per
medical report, the victim was above 19 years, as such, the
provisions of Sections 4 and 6 of the POCSO Act are not
attracted against the petitioner.

4. The discharge petition was rejected by the learned
court below on 09.09.2020 and uptill now the charges might



have been framed.

5. Sub-section (2) of Section 34 of the POCSO Act enshrines duty on the trial judge to determine the age of the victim. After exercising his jurisdiction under Sub-section (2) of Section 34 of the POCSO Act, if the learned trial judge is of the opinion that the victim was above 18, he may pass order accordingly.

6. With these observation this criminal miscellaneous petition is disposed of.

(Nawneet Kumar Pandey, J)

SONALI/Sudha-

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