

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.7643 of 2024**

Arising Out of PS. Case No.-43 Year-2021 Thana- PARBATTa District- Bhagalpur

DK @ DK @ D @ DHARMA KUMAR @ DHARAM KUMAR @  
DHARMBIR KUMAR SON OF PRAKASH YADAV THROUGH MOTHER  
AS GUARDIAN OF THE PETITIONER, NAMELY, RAM DULARI DEVI,  
AGED ABOUT 45 YEARS, WIFE OF PRAKASH YADAV, RESIDENT OF  
GORAIYA COLONY, P.S. - PARBATTa, DISTRICT - BHAGALPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PRIYANKA KUMARI @ PKRI DAUGHTER OF PHULKIT PASWAN  
RESIDENT OF GORAIYA COLONY, POST AND P.S. - PARBATTa,  
DISTRICT - BHAGALPUR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Indeshwari Mandal  
For the Opposite Party/s : Ms.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

2      12-07-2024              Heard the learned counsel for the petitioner and the  
learned APP for the State.

2.        The present petition is by way of second attempt at the  
behest of the petitioner for grant of regular bail in connection  
with Prabatta P.S. Case No. 43 of 2021, corresponding to  
POCSO Case No. 42 of 2021/ Special Case (Children) No. 16 of  
2021, registered for the offences punishable under Sections  
376(3) of the Indian Penal Code, Section 4 of the POCSO Act  
and Sections 3(1)(R)(S), 3(2)(V) of the SC and ST Act,  
inasmuch as the earlier prayer of the petitioner for grant of bail  
was rejected by this Court, by an order dated 4.1.2023, passed in



Criminal Miscellaneous No. 23145 of 2022.

3. The case of the prosecution, in brief, according to the informant / victim girl, is that on 6.4.2021 at about 3:00 pm. while she had gone for plucking fruits behind her house and had plucked shahtoot from the tree and was eating the fruits, the petitioner had arrived there and caught her hand, whereupon he had taken her into the corn field of one Rajo Mandal, where the petitioner had raped her. It is further stated by the informant that thereafter, the petitioner had fled away and while she was returning, carrying her clothes, her sister met her on the way and took her home.

4. The learned counsel for the petitioner submits that the petitioner is languishing in custody since 12.4.2021, hence, now at least, he should be granted the privilege of bail, especially in view of the fact that no sign of rape has been found upon the victim by the Doctor.

5. *Per contra*, the learned APP for the State has vehemently opposed the prayer for bail and has submitted that this Court, vide its earlier order dated 4.1.2023, had considered, in detail, the materials available in the case diary to the effect that the victim girl has stated, in her statement made under Section 164 Cr.P.C., before the learned Magistrate that the petitioner had



raped her, hence, the complicity of the petitioner in the alleged occurrence is evident. It is also submitted, by referring to the aforesaid order dated 4.1.2023 that the medical report shows that the victim girl is a minor and the FSL report, pertaining to the clothes of the victim girl, shows presence of blood and semen, hence, there is no doubt about the complicity of the petitioner in the alleged occurrence. The learned APP for the State has further submitted that the earlier Social Investigation Report of the petitioner shows that the child is indisciplined, has left studies long back, is a paper vendor, is of quarrelsome nature and is a loafer, who roams about here and there in his free time and moreover, the family members of the petitioner are also of quarrelsome nature and the Counsellor (Observation Home), Bhagalpur, has come to a conclusion that the petitioner is healthy and his mental faculties are developed.

6. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record, this Court finds that not only the victim girl has corroborated the factum of rape, committed by the petitioner with her, in her statement made under Section 164 Cr.P.C. before the learned Magistrate, but the said occurrence has also



stood corroborated from the report of the Forensic Science Laboratory, Bhagalpur and moreover, the Ld. Special Judge (Children Court), Bhagalpur in its order dated 13.12.2021, has opined that the petitioner is required to be tried like an adult and as per social investigation report, the behaviour of the petitioner has been found to be indisciplined, he is having bad company and the members of his family are not having good instinct, as such, release of the petitioner on bail may bring him again in association of bad elements of society, hence I do not find any merit in the present petition, moreso, since there is no change in circumstance so as to warrant reconsideration of the prayer of the petitioner for grant of bail, thus, the same stands dismissed.

**(Mohit Kumar Shah, J)**

Ajay/-  

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