

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41514 of 2024**

Arising Out of PS. Case No.-154 Year-2024 Thana- KHAJANCHI HAT District- Purnia

Rajesh Mandal S/o Late Mahavir Mandal R/O Village- Ganguly Para Bhatta
Bazar, P.S- K.Hat, Distt.- Purnea.

... .. Petitioner

Versus

1. The State of Bihar
2. Geeta Devi W/o Rajesh Mandal R/o Village- Ganguly Para Bhatta Bazar,
P.S- K.Hat, Distt.- Purnea.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 18-09-2024 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with K. Hat (Sahayak) P.S. Case No.154 of 2024 registered
for the offences punishable under Sections 376 read with 34
of the Indian Penal Code as well as Sections 4 and 6 of the
Protection of Children from Sexual Offences Act.

3. The accused/petitioner is named in the FIR and
is in custody since 19.02.2024.

4. Allegation against the petitioner is to commit



rape/penetrative sexual assault upon the daughter of informant, who is also his daughter.

5. It is submitted by learned counsel that out of family dispute, the petitioner has been falsely implicated with present case. During the course of submission, learned counsel drawn attention of this Court towards Annexure-2 of the petition, which is a letter written by the victim herself stating thereof that the petitioner i.e. his father is not involved in this case in any manner. It is further submitted that the victim upon medical examination found between the age group of 17-19 years and moreover no mark of injury was found in or around her private part, which negate the allegation as raised against this petitioner. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP while opposing the prayer for grant of bail to the petitioner submitted that the victim is none but the daughter of the petitioner, who categorically



stated through her statement as recorded under Section 164 of the CrPC, which is available in para-6 of the case diary that how on four different occasions, the petitioner committed penetrative sexual assault upon her when her mother went to visit her parental home. It is submitted that upon medical examination, hymen was found torn, which only corroborate the version of victim as recorded under Section 164 of the CrPC and moreover non-finding of injuries does not lead to a conclusion *ipso facto* that rape/penetrative sexual assault was not committed upon, as rape is a legal finding not medical one.

7. In view of aforesaid facts and circumstances and by taking note of fact as victim specifically alleged that petitioner has committed penetrative sexual assault/rape upon her on different occasions, who is none but her father through her statement recorded under Section 164 CrPC, the prayer for bail of the petitioner is rejected herewith.

8. Considering the fact that petitioner is in custody since 19.02.2024, the learned Trial Court is directed to conclude the trial within the specified time period as



available through Section 35(2) of the POCSO Act, 2012.

(Chandra Shekhar Jha, J.)

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