

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33265 of 2025

Arising Out of PS. Case No.-333 Year-2023 Thana- NARPATGANJ District- Araria

Bhupen Paswan @ Bhupendra Kumar, S/o Late Dev Narayan Paswan,
Resident of Chakorwa, Sonapur, Police Station- Narpatganj (Bathnaha), Dist.-
Araria.

... .. Petitioner

Versus

1. The State of Bihar
2. Sahana Khatoon, D/o Abdul Farmalla, R/o Pepulada, P.S.- Jiwantala, Dist.-
North Pargana, West Bengal.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Kumar Ravish, Advocate

For the Opposite Party/s : Ms. Suman Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 21-05-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. The accused/petitioner is named in the FIR and

apprehending his arrest in connection with Narpatganj

(Bathnaha Out Post) P.S. Case No.333 of 2023 registered

under Sections 376-AB of the Indian Penal Code and Section

4 of the Protection of Children from Sexual Offences Act (in

short 'POCSO Act').

3. Allegation against the petitioner is to commit

rape/penetrative sexual assault upon informant/victim.

4. It is submitted by learned counsel appearing for



petitioner that as per medical report, the victim appears major on the date of occurrence, therefore, the lodging of present FIR under POCSO Act not appears justified. It appears that admittedly the victim resided with sister of petitioner for long one month in search of her lovers namely, Sarfraj, but in the meantime, the occurrence took place. It is submitted that even the medical report negate on its face that any recent sexual assault was made upon the informant/victim. The petitioner is said to be a man of clean antecedent.

5. Learned APP while opposing the prayer of bail submitted that non-finding of injury upon the informant/victim does not lead to a conclusion *ipso facto* that rape was not committed upon for the reason that rape is a legal finding and not a medical one. It is submitted that the victim supported the occurrence through her statement as recorded under Section 164 of the Code of Criminal Procedure, where specific allegation was raised against the petitioner as to commit rape upon her. It is submitted that even the sister of the petitioner supported the occurrence as raised by informant.



6. In view of aforesaid facts and circumstances and by taking note of the statement of victim as recorded under Section 164 of the CrPC, where she specifically alleged against petitioner as to commit rape/penetrative sexual assault upon her, accordingly, the prayer of anticipatory bail of the petitioner stands rejected herewith.

(Chandra Shekhar Jha, J.)

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