

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4916 of 2024

In
CRIMINAL MISCELLANEOUS No.42761 of 2024

Arising Out of PS. Case No.-108 Year-2022 Thana- BENIPATTI District- Madhubani

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Bholu Kumar Paswan @ Bholu Paswan @ Trideo Paswan Son of Vijan Paswan through his mother namely Rekha Devi, aged about 51 years (female), Wife of Vijan Paswan, Resident of Village - Bishanpur, P.S. - Benipatti, District - Madhubani

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Subhash Kumar Jha, Advocate

For the Respondent/s : Mr. Arun Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 19-04-2025 In the instant appeal filed under Section 101(5) of the J.J. Act, 2015, the appellant has prayed for bail on the ground that the appellant established physical relationship with a minor girl aged about 16/17 years as per the medical report. The appellant claimed himself to be a minor.

2. Referring to the confessional statement of the victim, it is stated by the learned counsel for the appellant that there was a love relationship between the parties, which culminated into physical intercourse for three or four times. Even assuming that the act of physical relationship was committed by the parties, those are consensual sex and no

offence lies against the appellant.

3. Learned APP has raised objection against the prayer for bail.

4. I have perused the case diary and this Court records at the outset that a minor cannot give consent in establishing sexual relationship as a result of alleged love affairs. The consent by the minor is treated to be no consent, therefore, the appellant misinterpreted that he had love affair with the victim and obtained her consent in establishing sexual relationship which has no sanctity under the law. It is too unfortunate to note that a minor boy could not control his libido and *prima facie* committed an offence under Section 376 of the I.P.C. read with the relevant provision of the POCSO Act.

5. Considering the heinous nature of offence and *proviso* to Section 12 of the J.J. Act, 2015, I am not inclined to grant bail to the appellant. The prayer for bail is rejected.

6. Accordingly, the appeal stands dismissed

7. Since, it is submitted by the learned counsel for the appellant that the trial is going on, the Children Court shall take all endeavor to conclude the trial expeditiously

and preferably within six months from the date of
communication of this order.

(Bibek Chaudhuri, J)

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