

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79602 of 2024

Arising Out of PS. Case No.-337 Year-2024 Thana- DARAUNDA District- Siwan

Deepak Ram Son of Ram Dular Ram Resident of Village -Abhui PS
-Daraunda, dist- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Suganti Devi Wife of Ganesh Ram Resident of Village -Abhui PS
-Daraunda, dist- Siwan

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Adesh Raj, Adv.
For the Opposite Party/s : Mr. Dr. Ajeet Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-01-2025 Heard the parties.

2. Notice was issued by this Court to informant/
O.P. No. 2 which was served upon personally but failed to
join present proceedings.

3. The petitioner seeks bail in connection with
Daraunda P.S. Case No. 337 of 2024 registered for the
offence under Sections 65(1) of B.N.S. and Section 4 of the
POCSO Act.

4. The petitioner is named in the F.I.R. and is in
custody since 29.07.2024.

5. The allegation against the petitioner is to



commit rape/penetrative sexual assault upon the daughter of the informant aged about 13 years.

6. Learned counsel appearing on behalf of the petitioner submitted that victim is own niece of the petitioner and due to family property disputes, he was falsely implicated with present case. It is pointed out that false implications can be gathered easily from the statement of victim as recorded under Section 183 of B.N.S.S. for the reasons that despite being niece she failed to name the petitioner, who is none but her own uncle. It is pointed out that aforesaid statement suggests to some extent the penetrative sexual assault but the medical report of the victim, where she was examined immediately within 24 hours of occurrence, doesn't suggest any injury in or around her private part, negating *prima-facie* the allegations of penetrative sexual assault. It is pointed out that out of said medical examination the age of victim was found between 14-17 years on the basis of radiological examination. In this context, it is submitted that if margin of ± 2 years as a normal error be allowed, in terms of



Rajak Mohammad vs. State of Himachal Pradesh

reported in ***(2018) 9 SCC 248***, the victim appears major on the date of occurrence and, therefore, the implications under Section 4 of the POCSO Act *prima-facie* appears false.

7. It is further submitted by learned counsel for the petitioner that during course of investigation it transpires that the parents of victim does not have any documents in support of date of birth of the victim, which required legally in terms of Section 94 of Juvenile Justice (Care and Protection of Children) Act, 2015 and also approved by Hon'ble Supreme Court in ***Jarnail Singh vs. State of Haryana*** as reported in ***2013 (7) SCC 263***. In support of his submission learned counsel pointed out para no. 11 of the case diary. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

8. Learned APP opposes the prayer of bail.



9. In view of aforesaid facts and submission and by taking note of the statement of victim as recorded under Section 183 of the B.N.S.S. and also medical report which *prima-facie* negate the rape/penetrative sexual assault upon victim, coupled with fact that investigation of this case is completed where petitioner is in custody since 29.07.2024, accordingly petitioner above named, is directed to be released on bail in connection with Daraunda P.S. Case No. 337 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. District and Sessions Judge IV cum Exclusive Special Judge, POCSO, Siwan/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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