

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 79690 of 2024

Arising Out of PS. Case No.-194 Year-2024 Thana- BHAGWANPUR District- Vaishali

Irfan Ansari S/O Late Md. Muslim Ansari R/O Village- Bihari, P.O and P.S-
Bhagwanpur, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanju Devi W/O Vinod Baitha R/O Village- Bihari Nahar, P.O and P.S-
Bhagwanpur, Distt.- Vaishali, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajiv Prashant, Adv

For the Opposite Party/s : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-01-2025 Heard the parties.

2. The petitioner seeks bail in connection with

Bhagwanpur P.S. Case No. 194 of 2024 registered for

the offence under Sections 64(1) of the BNSS and under

Section 4 of POCSO Act.

3. The petitioner is named in the F.I.R. and is in

custody since 02.07.2024.

4. The allegation against the petitioner is to

commit rape/penetrative sexual assault upon daughter of

the informant after kidnapping her who was minor, aged

about sixteen years on the date of occurrence.



5. Learned counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated in present case as petitioner was in love affairs with victim and this fact can be easily gathered from annexure-2 which is the photographs of the petitioner and victim showing *prima facie* their bonding towards each other. It is pointed out that upon medical examination, no injury on private parts of victim was found, negating rape on its face. It is submitted that petitioner was apprehended immediately but he was not subjected to medical examination in view of Section 53A of Cr.P.C. 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.

6. Learned APP while opposing the prayer of bail submitted that victim categorically stated in her statement recorded under Section 183 of the BNSS that



the petitioner after kidnapping her, took her to a local hotel and thereafter, committed rape/ penetrative sexual assault upon her. It is also pointed out that from the forensic report, blood has been detected at places in each of the exhibits marked as A, B, C, D which are dirty brown color panty, old dirty pink color bra, old dirty white color salwar of the victim and old dirty grey color *janghai* which said to be of accused, whereas blood mixed semen has also been detected from exhibit marked A, C and D as aforesaid. It is submitted that as per school certificate, the age of victim on the date of occurrence was about sixteen years as her date of birth appears 02.08.2008. It is further submitted that non finding of injury does not lead to conclusion *ipso facto* that rape/penetrative sexual assault was not committed upon victim as rape is a legal finding not a medical one.

7. In view of aforesaid factual submission as victim categorically alleged petitioner to commit rape/penetrative sexual assault upon her after



kidnapping, where occurrence further *prima-facie* affirmed, as blood mixed semen were found upon the cloths of petitioner and victim, accordingly, prayer of bail of above-named petitioner stands **rejected**.

(Chandra Shekhar Jha, J)

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