

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35224 of 2026

Arising Out of PS. Case No.-36 Year-2024 Thana- HARPUR District- East Champaran

Rajesh Prasad Gupta S/o Yogendra Prasad Gupta Resident of Village- Nayak
Tola, P.S- Harpur, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. XX D/o YY R/o Village - Nayak Tola, P.S.- Harpur, District - East
Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hemant Ray, Adv.

For the Opposite Party/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

3 27-05-2026 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State. Pursuant to the

earlier direction of this Court, Mr. Swarna Prabhat,

Superintendent of Police, East Champaran, Motihari, attended

the court proceeding virtually.

2. The petitioner seeks bail in Harpur P.S. Case No.

36 of 2024 registered under Sections 126, 64, 352, 351(1), 3(5)

of BNS and Sections 6, 8 of the POCSO Act.

3. The allegation in the FIR is that the prosecutrix,

aged about 17 years, was allegedly raped by her own father.

Upon protest, she informed her mother, but to no avail.

Thereafter, she is alleged to have attempted to take her own life.



4. This Court took serious note of the grave nature of the allegations and directed Mr. Swarna Prabhat, Superintendent of Police, East Champaran, Motihari, to appear in this case. This Court further directed that the prosecutrix be brought to his office, where she should be provided the assistance of a lady police officer. Mr. Swarna Prabhat, Superintendent of Police, Motihari, submits that he has deployed a lady police officer with the prosecutrix as directed by this Court. He further submits that the prosecutrix stated before him that the continued custody of her father has caused financial hardship for the family, including her mother. She further stated that she would ensure that no such incident recurs in the future.

5. Learned counsel for the petitioner submits that the petitioner is accused in two cases and has been in custody since 20.09.2024. He further submits that the prosecutrix has stated that her father should be released on bail, having regard to the financial hardship caused to the family.

6. Learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

7. This Court has carefully considered the rival submissions. The offences alleged are of an extremely serious nature, involving the alleged rape of a minor by her own father,



which strikes at the very foundation of familial trust and the safety of the child within the domestic sphere. This Court is mindful that in cases of sexual offences against minors, the grant of bail must be approached with great circumspection and the protection of the victim must remain the paramount consideration. At the same time, this Court has taken note of the statement of the prosecutrix herself, recorded before Mr. Swarna Prabhat, Superintendent of Police, East Champaran, Motihari, in which she has expressed concern regarding the financial condition of her family on account of the continued incarceration of the petitioner, and has expressed her desire that he be released on bail. This Court is conscious that such a statement by a minor victim, made in the context of familial and financial pressure, cannot and does not amount to a waiver of any right, nor does it constitute a condonation of the alleged act. It is, however, a relevant circumstance to be weighed in the balance while considering the question of bail. Furthermore, the deployment of a lady police officer with the prosecutrix, as directed by this Court and confirmed by the Superintendent of Police, provides a measure of assurance that the prosecutrix shall not be left without institutional support. This Court, accordingly, and without expressing any opinion on



the merits of the case, finds it appropriate to enlarge the petitioner on bail, subject to stringent conditions as set out hereunder, which conditions are designed to safeguard the interests of the prosecutrix at all times.

8. Considering the statement of the prosecutrix recorded before Mr. Swarna Prabhat, Superintendent of Police, East Champaran, Motihari, this Court is inclined to grant bail to the petitioner, subject to the condition that in the event the prosecutrix lodges any fresh complaint against her father, the concerned administration shall forthwith take steps for cancellation of the bail. This Court places on record its appreciation for Mr. Swarna Prabhat, Superintendent of Police, East Champaran, Motihari, for his prompt and sensitive handling of the matter and for his assistance in enabling this Court to resolve the same.

9. Let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge, Exclusive Special Judge (Rape & POCSO Cases), East Champaran, Motihari in connection with Harpur P.S. Case No. 36 of 2024.



10. It is made clear that any observation made herein is *prima facie* in nature and limited solely for the purpose of adjudication of the present bail application. Such observations shall not be construed as an expression on the merits of the case and shall not influence the trial or any other proceedings in any manner.

(Ansul, J)

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