

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3585 of 2025

Arising Out of PS. Case No.-204 Year-2023 Thana- BHITAHA District- West Champaran

Seraj Ali @ Sherbaj Ali S/O Molazim Miyan @ Molazim Husain, Resident of
Village- Brit Badahara (Muradih), Ward No.-7, P.S.- Bhitaha, District-West
Champaran. Petitioner/s

Versus

1. The State of Bihar.
2. Taiyab Ali S/O Abdul Gaffar, R/O Village- Rehara, P.S- Bhitaha, Distt.-
West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Alexander Ashok, Advocate Mr. Jawed Akhtar, Advocate
For the Opposite Party/s :		Mr.Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Sharad Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 22-07-2025 Heard learned counsel appearing on behalf of the

petitioner, learned APP appearing on behalf of the State and

learned counsel appearing on behalf of the informant.

2. The petitioner seeks bail in connection with Bhitaha

P.S. Case No. 204 of 2023 registered for the offence under

Sections 366A, 504, 506, 34 of the Indian Penal Code but charge-

sheet was submitted under Sections 363, 366A, 376, 120B of the

Indian penal Code and Section 4 and 8 of POCSO Act.

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

in custody since 06.07.2024.

4. Allegation against petitioner is to kidnap the minor

daughter of the informant, aged about 17 years for the purpose of

illicit intercourse or to seduced/forced her to enter into marriage

with another person.



5. Learned Counsel appearing on behalf of the petitioner submitted that the daughter of the informant was in love affairs with petitioner and out of her sweet will, they accompanied together and went up to Pune. It is submitted that victim admittedly returned back with her uncle from Pune and for long six days, she was with him before recording her statement under Section 164 of Cr.P.C. and, therefore, tutoring cannot be ruled out. It is submitted that medical report is nowhere corroborating the allegation that rape was committed upon victim. It is submitted that in this case even till now charge was not framed by the learned trial court despite of the fact that petitioner is in custody since more than one year which appears *prima facie* defeating the provisions of speedy trial as available in Act itself under Section 35(2) of the POCSO Act. Petitioner is said to be a man of clean antecedent.

6. Heard learned APP appearing for the State.

7. Mr. Sharad Kumar Verma, learned counsel appearing for informant, while opposing bail submitted that the victim was born on 11.06.2007 as per her Bihar School Examination Board Certificate and, therefore, she was between age group of 16-17 years at the time of occurrence. It is also submitted by Mr. Verma that victim categorically stated in her statement that rape was



committed upon her by this petitioner on 2-3 occasions during 20 days of her stay with petitioner at Pune.

8. Considering the facts and circumstances and by taking note of fact as tutoring of victim before recording her statement under Section 164 of Cr.P.C. *prima facie* cannot be ruled out as admittedly she was for long six days with her uncle coupled with the fact that petitioner is in custody since more than one year i.e. 06.07.2024, where even charge could not framed by learned trial court which appears *prima facie* defeating right of speedy trial of petitioner as available under Section 35(2) of the POCSO Act itself, accordingly, petitioner above named, is directed to be released on bail in connection with Bhitaha P.S. Case No. 204 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, West Champaran/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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