

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3077 of 2025

Arising Out of PS. Case No.-397 Year-2024 Thana- BANKA District- Banka

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Bibhishan Tanti @ Bibhishan kr. Tanti S/O Basudeo Tanti R/O Village- Louni,
P.S- Barahat, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Gopal Yadav S/O Sahdeo Yadav R/O Village- Mangra, P.S and Distt.- Banka.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar @Deepak Sahay, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 16-04-2025 Heard learned counsel for the petitioner and learned APP
for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Banka
P.S. Case No. 397 of 2024 instituted for the offence under
Sections 96 of the Bharatiya Nyaya Sanhita. Subsequent,
Section 8 of the POCSO Act was added.

3. As per prosecution case, accusation against the
petitioner is that he lured minor daughter of the informant and
took her away with intention to marry her.

4. It has been submitted on behalf of the petitioner
that the petitioner is in custody since 26-09-2024. Petitioner
bears no criminal antecedent, as per disclosure made in



paragraph No. 3 of the bail application.

5. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case due to dirty village politics. There is delay of three days in lodging the FIR. It is submitted that victim at her own volition has gone with the petitioner because of their love affairs. It is submitted that victim in her statement recorded under Section 183 of the BNSS, has stated that no one has forced her or committed any wrong with her. Referring to medical report of the victim, it is submitted that no spermatozoa was found. Charge sheet is submitted in this case.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. It is submitted that though victim had gone herself at her own volition, but her consent is not admissible in the eye of law and in her statement recorded under Section 183 of the BNSS, she has disclosed that victim and petitioner had established physical relationship and that amounts to rape in the present circumstances.

7. Considering the aforesaid facts and circumstances of the case, nature and gravity of the offence coupled with the fact that the victim is minor; hence her consent is not admissible



in the eye of law, this Court, at this stage, is not inclined to grant bail to the petitioner. Prayer for grant of bail, is accordingly, rejected.

8. The Trial Court is directed to expedite the trial as expeditiously as possible without any undue delay and unnecessary adjournments.

9. However, petitioner will be at liberty to renew his prayer for bail if the trial is not concluded within a period of six months from today.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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