

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5779 of 2025

Arising Out of PS. Case No.-138 Year-2021 Thana- KUSHESHWARASTHAN District-
Darbhanga

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Md. Shahan Shah @ Shahan Shah Son of Md. Aslam @ Md. Asalam Resident
of Village - Nadai, P.S. - Jamalpur, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Samida Khatoon Wife of Md. Rauf Resident of Village - Gora, P.S. -
Kusheshwar Asthan, District - Darbhanga

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Parmod Ban Bihari Singh, Advocate
For the State	:	Mr. Ram Bilash Roy Raman, APP
For the Informant	:	Mr. Dharmendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-02-2025 Heard Mr. Parmod Ban Bihari Singh, learned counsel

for the petitioner, Mr. Dharmendra Kumar Singh, learned
counsel appearing on behalf of the informant as well as Mr.
Ram Bilash Roy Raman, learned Additional Public Prosecutor
for the State.

2. Petitioner seeks bail who is in custody since
25.08.2024 in connection with Kusheshwar Asthan P.S. Case
No. 138 of 2021, F.I.R. dated 12.07.2021 for the offences
punishable under Sections 363, 366, 366(A) and 34 of the
Indian Penal Code and subsequently Section 8 and 12 of
POCSO Act has also been added.

3. According to prosecution case, this petitioner along



with other co-accused persons have kidnapped the daughter of the informant with the intention to kill her.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. From perusal of the FIR, it appears that the date of occurrence as alleged in the FIR is 04.05.2021 but the present FIR was instituted on 12.07.2021 after delay of 02 months nine days without giving any proper explanation of delay and no case is made out against the petitioner under Section 366(A) and 8/12 of POCSO Act. He further submits that the statement of victim was recorded under Section 164 of the Cr.P.C/183 of B.N.S.S, 2023 in which, although, she has given the name of the petitioner but she has not stated anything about the sexual assault against the petitioner and apart from that victim has refused for medical examination. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 25.08.2024.

5. Learned Additional Public Prosecutor for the State as well as learned counsel for the informant, on the other hand,



vehemently opposed the prayer for bail of the petitioner. Learned counsel for the informant on instructions submits that marriage of victim has been performed in another place and now, the informant wants to settle the issue with the petitioner.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge (POCSO), Darbhanga in connection with Kusheshwar Asthana P.S. Case No. 138 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his



criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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