

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11663 of 2025

Arising Out of PS. Case No.-515 Year-2024 Thana- TEKARI District- Gaya

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Sujeet Kumar, S/o Munni Lal Yadav, R/o Village-Khagari, P.S.- Sarbahada,
District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. Munni Kumari, D/o Yogesh Yadav R/o Village-Noni Jalalpur, P.S- Tekari,
Distt.- Gaya.

... .. Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Durgesh Nandan, Advocate
For the State	:	Mr. Surendra Prasad Singh, APP
For the O.P. No.2	:	Mr. Ajay Kumar Sinha, Advocate
		Mr. Abhishek Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 23-07-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State duly assisted by

learned counsel appearing for informant/O.P. No.2.

2. The accused/petitioner seeks bail in connection

with Tekari P.S. Case No.515 of 2024 registered for the

offences punishable under Sections 127(1), 127(2), 115(2),

64, 351(2), 351(3), 3(5) of the BNS as well as Sections 4

and 6 of the Protection of Children from Sexual Offences Act,

2012 (in short 'POCSO Act').

3. The accused/petitioner is named in the FIR and is

in custody since 27.12.2024.



4. Allegation against the petitioner is to commit rape upon informant on several occasions on false pretext of marriage.

5. It is submitted by learned counsel appearing for petitioner that the allegation as raised through FIR is not clear whether the occurrence was a rape or it was sexual intercourse by implying deceitful means. It is submitted that upon medical examination, the informant/victim was found aged about more than 19 years, however, as per school certificate, on the date of occurrence, she was found 17 years and four months. It is submitted that if the marginal error be given in view of **Jaya Mala vs. Home Secretary, Government of Jammu and Kashmir and Ors.** reported in **(1982) 2 SCC 538** then, the victim appears major on the date of occurrence and, therefore, the prosecution under POCSO Act *prima facie* appears bad in the eyes of law. It is further submitted by learned counsel that the FIR was mainly lodged due to some altercation which took place between father of the victim and parents of petitioner, otherwise there was no occasion to lodge FIR, which can be gathered from FIR



itself. While concluding argument, it is submitted that investigation of this case is completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by Mr. Abhishek Kumar, learned counsel for the informant while opposing the prayer for bail of the petitioner submitted that the allegation of rape is specific against petitioner. However, he could not disputed the factual submissions as advanced aforesaid.

7. In view of aforesaid facts and circumstances and by taking note of fact as the allegation itself *prima facie* not clear whether the occurrence was rape or a case of sexual intercourse by implying the deceitful means, coupled with the fact that investigation of this case is already completed, where petitioner is in custody since 27.12.2024, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge POCSO-cum-Additional Sessions Judge-VII, Gaya in connection with Tekari P.S. Case



No.515 of 2024, subject to the conditions as laid down under
Section 437(3) of the Code of Criminal Procedure (for short
‘CrPC’)/under Section 480(3) of the Bhartiya Nagrik
Suraksha Sanhita (for short ‘BNSS’).

(Chandra Shekhar Jha, J.)

Sanjeet/-

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