

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11104 of 2025

Arising Out of PS. Case No.-32 Year-2024 Thana- MAHILA P.S. District- Saharsa

Mithilesh Kumar, S/o Yogendra Yadav, R/o Village-Bajnathpur, P.S.-
Bajnathpur, Dist.- Saharsa

... .. Petitioner

Versus

1. The State of Bihar
2. Raj Kumar Swarnkar, S/o Khusilal Swarnkar, R/o Village-Bajnathpur, P.S.-
Bajnathpur, Dist.- Saharsa

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Alok Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

11 15-10-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with Mahila P.S. Case No.32 of 2024 registered for the
offences punishable under Sections 65(2) of the Bhartiya
Nyaya Sanhita, 2023 (for short 'B.N.S.') as well as Sections 4
and 6 of the Protection of Children from Sexual Offences Act,
2012 (for short 'POCSO Act').

3. The accused/petitioner is named in the FIR and
is in custody since 26.11.2024.

4. Allegation against the petitioner is to commit



penetrative sexual assault upon minor daughter of the informant aged about seven years.

5. It is submitted by learned counsel appearing for petitioner that there are a lot of contradictions *qua* occurrence as per FIR and the statement recorded under Section 183 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS') of victim. In this context, it is submitted that the petitioner was accompanied with the father of victim at the time of occurrence as per FIR and he raised suspicion against named co-accused Rahul Yadav but, subsequently, the victim identified this petitioner out of his voice recognition only. It is submitted that even as per statement recorded under Section 183 of the BNSS, it cannot be gathered that any penetrative sexual assault/rape as alleged was committed upon victim. It is pointed out that that admittedly land dispute was pending between the father of named co-accused Rahul Yadav and father of victim, who subsequently in connivance with police falsely implicated this petitioner with present crime in question to save co-accused Rahul Yadav.

6. Arguing further, it is submitted that the petitioner



is in custody since 26.11.2024 and still only two prosecution witnesses were examined in this case including victim. It is pointed out that trial is not likely to concluded within preferred timeline of one year in view of Section 35(2) of the POCSO Act, and, therefore, the petitioner is entitled for bail.

7. Learned APP opposed the prayer for grant of bail to the petitioner.

8. In view of aforesaid factual submissions and by taking note of contradictory version of FIR, where the petitioner found with informant at the time of occurrence, where suspicion *qua* crime in question was raised against Rahul Yadav coupled with the fact that the trial of this case is not likely to conclude within preferred timeline of one year, where petitioner remains in custody since 26.11.2024, 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 Special Judge, POCSO Act, Saharsa in connection with Mahila P.S. Case No.32 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/-

U		T	
---	--	---	--

