

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20061 of 2025

Arising Out of PS. Case No.-22 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

Mohammad Hakim S/o- M.D. Mokim @ Shahanshah Village- Rahamat Bag
Dr Shamshad Lane P.S-Madhusudanpur P.O-Nathnagar District-Bhagalpur

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Jubeida W/o- Md. Munna R/o- Badre Alampur Village- Shahjangi Po
Ps- Habibpur Dist- Bhagalpur

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Amit Kumar Jha, Advocate
For the State	:	Mr.Mritunjay Kumar Nirala
For the Informant	:	Mr.Dhananjay Kr.Gupta, Advocate
		Mr.Dhandev Kumar, Advocate
		Mr.Sumit Kumar Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 04-09-2025 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State duly assisted by

learned counsel for the informant.

2. The accused/petitioner seeks bail in connection with

Mahila P.S. Case No. 22 of 2023 (Special POCSO Case No. 121
of 2023) registered for the offences under Sections 376, 504,
506, 34 of the Indian Penal Code.

3. The accused/petitioner is named in the First
Information Report and is in custody since 27.08.2023.

4. Allegation against the petitioner is to kidnap the
minor daughter of the informant aged about 14 years from her



house/courtyard and thereafter to confined her in a partly constructed house for two days and committed repeatedly penetrative sexual assault/rape upon her. It is further alleged that when the occurrence was reported to the parents of the petitioner, the informant and her family members were abused and assaulted by them.

5. It is submitted by Mr. Amit Kumar Jha, learned counsel appearing on behalf of the petitioner that statement of the victim as recorded under section 164 of the Cr.P.C. appears in contradiction to the FIR, for two reasons, firstly, the place of occurrence, as stated in 164 Cr.P.C. statement of the victim, was the public road, whereas, as per FIR, it is the courtyard of the house of the informant, and secondly, in 164 statement of the victim, the occurrence took place in the background of false promise of marriage, whereas no such allegation appears to be raised through FIR.

6. It is further submitted that the FIR in issue was lodged after one and half month of the alleged occurrence, which appears not properly explained. It is submitted that even the medical report of the victim not appears supporting *prima facie* allegation of sexual assault.



7. It is submitted that with all such allegations, petitioner remains in custody since 27.08.2023 i.e. more than two years, crossing the preferred timeline of one year as to conclude the trial in view of section 35(1) of the POCSO Act, and, therefore, on this score alone, petitioner deserves bail. Arguing further, it is submitted that still this matter appears at the stage of prosecution evidence.

8. While concluding argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is already completed and as such, there is no chance of tampering with the evidence.

9. Learned A.P.P. for the State, duly assisted by learned counsel for the informant, while opposing the prayer for bail of the petitioner, submitted that specific allegation is available against this petitioner. It is submitted that out of eleven charge-sheet witnesses, eight prosecution witnesses have already been examined in this case and, therefore, trial may conclude in near future, however, he could not disputed the factual and legal submission as advanced by learned counsel appearing for the petitioner as discussed aforesaid.

10. In view of the aforesaid factual submission and by



taking note of the fact as FIR *prima facie* appears in contradiction with the statement of the victim as recorded under section 164 of the Cr.P.C., coupled with the fact that trial of this case was not concluded even after passing of two years defeating the provisions of section 35(2) of the POCSO Act, where petitioner remains in custody since 27.08.2023, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned District and Additional Sessions Judge–VI-cum-Special Judge, POCSO Act, Bhagalpur, in connection with Mahila P.S. Case No. 22 of 2023 (Special POCSO Case No. 121 of 2023), subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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