

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22052 of 2025

Arising Out of PS. Case No.-62 Year-2024 Thana- HARNAUT District- Nalanda

Kundan Kumar @ Kundan Sao, Son of Late Shivraj Sao @ Late Shiv Raj Prasad, Resident of Village - Poowari, P.S. - Harnaut, District - Nalanda
... .. Petitioner

Versus

1. The State of Bihar
2. Kajal Kumari, Daughter of Chandeshwar Prasad, Resident of Village - Chiksaura, P.S. - Chiksaura, District - Nalanda
... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Binit Kumar, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Ritesh Kumar Sinha, Advocate Mr. Akash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 16-09-2025 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State duly assisted by learned counsel appearing for the informant.

2. The accused/petitioner seeks bail in connection with Harnaut P.S. Case No.62 of 2024 registered for the offences punishable under Sections 313, 376 of the Indian Penal Code (in short 'IPC'), Sections 3 and 4 of the Dowry Prohibition Act as well as Sections 8 and 12 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act').

3. The accused/petitioner is named in the FIR and is in custody since 08.01.2025.



4. As per FIR, which is based upon Complaint Case No.25C of 2023, the allegation available against this petitioner is to commit rape/penetrative sexual assault upon complainant/informant on false pretext of marriage, which could not solemnize due to non-fulfilment of demand of dowry as raised for cash of Rs.15 lakhs and a four-wheeler vehicle.

5. It is submitted by learned counsel appearing for the petitioner that admittedly relationship was consensual and when the marriage of complainant/informant could not solemnized with petitioner for any of the social reason, the present false implication was raised under the garb of dowry demand and miscarriage as alleged. It is submitted that present complaint was lodged after three years of the alleged last occurrence, which took place on 01.01.2021, whereas the complaint, which is basis of present FIR was filed only on 01.11.2023. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence. Petitioner claimed clean antecedent.



6. Learned APP duly assisted by Mr. Akash Kumar, learned counsel appearing for the informant/complainant while opposing the prayer of bail submitted that the delay was mainly for the reason that the negotiation of marriage was under progress but, same could not finalized due to dowry demand, as raised by the petitioner. It is submitted that out of relation, the complainant/victim becomes pregnant and it was terminated forcibly on instance of petitioner. It is submitted that the victim was also medically examined, where the report *prima facie* suggest that her pregnancy was medically terminated. While concluding argument, it is submitted that trial of this case is at advanced stage as out of four charge-sheeted witnesses (non-official), three witnesses have already examined including informant/victim, who supported the occurrence, as alleged and, therefore, there is no occasion to entertain the bail petition at this stage. It is also submitted that informant/victim found minor at the time of occurrence and, therefore, the charge-sheet was submitted under Section 4 of the POCSO Act.

7. In view of aforesaid facts and circumstances and



by taking note of fact that allegation of committing rape is available specific against this petitioner, where trial is likely to conclude within preferred timeline as available under Section 35(2) of the POCSO Act, accordingly, the prayer of bail of petitioner stands rejected herewith.

8. However, if the trial of this case is not concluded within preferred timeline as available under Section 35(2) of the POCSO Act, the petitioner may renew his prayer for bail, if so advised.

(Chandra Shekhar Jha, J.)

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