

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17953 of 2025

Arising Out of PS. Case No.-233 Year-2024 Thana- RAXAUL District- East Champaran

Md. Samsheer @ Md. Kadir S/o- Md. Mohuddin Village- W. no-6, Khajurbari
Haripur Ps- Jogbani Dist- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Prasad S/o- Sadhu Prasad Village- W.No-21, Main Road Govt.
Hospital Ps- Raxaul Dist- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Kumar Tiwari, Adv.
Mr. Akshya Tripathi, Adv.
For the Opposite Party/s : Mr. Dilip Kumar No. 1, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 12-08-2025 Heard the parties.

2. The petitioner seeks bail in connection with Raxaul
P.S. Case No. 233 of 2024 registered for the offence under
Sections 96, 303(2) of the BNS.

3. The petitioner is named in the F.I.R. and is in
custody since 24.07.2024.

4. The allegation against the petitioner is to kidnap
the minor daughter of informant aged about 14 years and
thereafter committed penetrative sexual assault / rape upon
her.

5. Learned counsel appearing on behalf of the



petitioner submitted that upon facial perusal of statement of victim as recorded under Section 183 of BNSS, it transpires that she out of acquaintance went alongwith petitioner up to Tamil Nadu on her own sweet will, where victim lived together with petitioner for couple of days and established physical relation out of her own consent but as petitioner was of different religion and further the employee of her father, the love affair of victim with petitioner was not approved by her parents and thereafter this false case was lodged.

6. Arguing further, it is submitted that cognizance in this matter was taken long back and since then even after passing of six months the statement of victim was not recorded by learned trial court which is otherwise mandatory, in view of Section 35(1) of POCSO Act. It is pointed out that petitioner remains in custody for more than one year and therefore chance to conclude trial appears remote within preferred time limit of one year from the date of cognizance which already crossed in this matter, in view of Section 35(2) of POCSO Act, petitioner claimed to be a man of clean antecedent.

7. Learned APP while opposing the prayer of bail submitted that allegation of penetrative sexual assault is



specifically available against this petitioner.

8. In view of aforesaid factual submission and by taking note of fact as victim could not examined by learned trial court in view of Section 35(1) of POCSO Act within one month of the date of cognizance and further despite of custody of more than one year even charges could not framed in this matter, defying completely the provisions as available under Section 35(2) of POCSO Act, accordingly petitioner above named, is directed to be released on bail in connection with Raxaul P.S. Case No. 233 of 2024 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court 3 for Rape Cases and POCSO Act, East Champaran /concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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