

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19221 of 2025

Arising Out of PS. Case No.-367 Year-2024 Thana- ATRI District- Gaya

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Anuj Kumar @ Anoj Kumar @ Anoj S/o- Bilash @ Ram Vilash Chauhan
Resident of Village- Beldari PS- Atri District -Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shami Kumar S/o- Siyaram Sharma Village- Dundichak Ps- Atri Dist- Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Adv.
For the Opposite Party/s	:	Mr. Braj Kishore Pd.,APP
For the Informant	:	Mr. Dhananjay Kr., Adv.
		Ms. Priya, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 12-08-2025 Heard the parties.

2. The petitioner seeks bail in connection with

Atri P.S. Case No. 367 of 2024 registered for the offence

under Sections 137(2), 96 of the BNS.

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

custody since 26.09.2024.

4. The allegation against the petitioner is to

kidnap the minor sister of informant aged about 17 years

for the purpose of illicit intercourse/ marriage.

5. Learned counsel appearing on behalf of the

petitioner submitted that the statement of victim was



recorded under Section 183 of BNSS, after her recovery, where she categorically stated that she went with petitioner out of her own sweet will for marriage. It is submitted that there is victim no where stated thereof that she established physical relation with petitioner, even out of consent and therefore the submission of charge-sheet for penetrative sexual assault is apparently bad in eyes of law. It is also pointed that out of radiological examination the age of victim was found about 19 years. While concluding the argument, it is submitted that even charge could not framed in this matter and there is no question of examining any witness despite of the fact that petitioner remains in custody since 26.09.2024 almost about a year, which is primarily defying the provisions of Sections 35(1) and 35(2) of POCSO Act where petitioner claimed to be a man of clean antecedent.

6. Learned APP duly assisted by learned counsel for the informant while opposing the prayer of bail submitted that allegation of penetrative sexual assault is



specifically available against this petitioner.

7. In view of aforesaid factual submission and by taking note of fact as *prima-facie* allegation of kidnapping and penetrative sexual assault not appears available against this petitioner, where legal provisions of Sections 35(1) and 35(2) of POCSO Act appears defeated, accordingly petitioner above named, is directed to be released on bail in connection with Atri P.S. Case No. 367 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 Spl. Judge POCSO cum Addl. Sessions Judge VII, Gaya / 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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