

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19985 of 2025

Arising Out of PS. Case No.-321 Year-2024 Thana- IMAMGANJ District- Gaya

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Mukesh Yadav @ Mukesh Kumar S/o- Radhe Yadav Resident of Village-
Siddhpur PS- Imamganj, Dist- Gaya Petitioner/s
Versus

1. The State of Bihar
 2. Wahida Bano D/o- Rojan Miyan Village- Gangati Po- Maigra Ps- Imamganj
Dist- Gaya Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Md. Javed Jafar Khan, Adv
: Mr. Anil Kumar Sinha, Adv
For the Opposite Party/s : Mr. Rajendra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 01-09-2025 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Imamganj

P.S. Case No. 321 of 2024 registered for the offences under

Sections 65(1), 3(5) and 333 of the Bharatiya Nyaya Sanhita.

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

since 01.12.2024.

4. The allegation against the petitioner is to commit

rape/penetrative sexual assault upon informant aged about 15

years after trespassing her house on 30.11.2024 at about 1 A.M.

along with other co-accused persons.

5. Learned counsel appearing on behalf of the petitioner

submitted that from the perusal of FIR on its face it can be

gathered easily that victim was in love affairs with petitioner since

her school days. It is submitted that when victim was apprehended

with petitioner by her parents/relative present false implication



was raised. It is submitted that as per radiological examination the age of victim was 18-19 years, therefore, lodging present case under POCSO Act also appears questionable. It is submitted that despite having custody for about nine months even victim was not examined defeating provisions of Section 35(1) of the POCSO Act and, therefore, the conclusion of trial within preferred time period of one year in view of Section 35 (2) of the POCSO Act also appears remote. Arguing further, learned counsel submitted that nothing surfaced during the medical examination of victim, which may suggest any physical assault during the occurrence. It is also submitted that due to certain confusion present case was lodged against petitioner and upon clarification, compromise was filed before learned Trial Court stating that matter stands compromised between the parties. While concluding the argument it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has already completed, and as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that thrust of allegation is available against petitioner and moreover, crime in question is not compoundable.

7. Notice was received by informant/O.P. No. 2



personally and, therefore, same appears validly served upon her, despite of same informant/O.P. No. 2 failed to join present pending proceeding.

8. In view of aforesaid factual submission and by taking note of fact as despite custody for about nine months even victim could not examined before learned Trial Court defeating provisions of Section 35(1) of the POCSO and further conclusion of trial in view of Section 35(2) of the POCSO Act appears a remote aspect, coupled with the fact as petitioner remains in custody since 01.12.2024, accordingly above named petitioner, is directed to be released on bail in connection with Imamganj P.S. Case No. 321 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 Judge POCSO cum Additional Sessions Judge-VII, Gaya/concerned court, subject to the conditions as mentioned under Section 480(3) of the B.N.S.S.

(Chandra Shekhar Jha, J.)

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