

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20044 of 2025**

Arising Out of PS. Case No.-461 Year-2024 Thana- BARUN District- Aurangabad

Gautam Kumar Son of Munna Ram village- Dev, ps- Dev, Dist- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Malti Devi wife of Virendra Ram village- Narayan Khap, Ps- Barun, Dist- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aman Vishal

For the Opposite Party/s : Mr.Ajay Kumar Jha

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

5 29-07-2025 Heard the parties.

2. Jointness regarding service of notice filed on affidavit.

3. Considering the same, notice as issued by this Court to the informant /O.P. No. 2 deemed validly served upon.

4. Despite of service, O.P. No. 2 / informant failed to join present proceedings.

5. The petitioner seeks bail in connection with Barun P.S. Case No. 461 of 2024 registered for the offence under Sections 96 of the BNS, 2023.

6. The petitioner is named in the F.I.R. and remains



in custody since 24.10.2024.

7. The allegation against the petitioner is to kidnap the minor daughter of the informant aged about 14 years for the purpose of illicit intercourse or to seduce/ forced her to enter into marriage with another person.

8. Learned counsel appearing on behalf of the petitioner submitted that as per statement of victim recorded under Section 183 of BNSS, it appears that she went on her own with petitioner to Agra, after taking Rs. 5,000/- from her home and returned after few days. It is submitted that the allegations of kidnapping and rape is not available against petitioner. It is pointed out that victim refused to join medical examinations and she also refused to go for radiological test as to ascertain her age. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is already completed, as such, there is no chance of tampering with the evidence.

9. Learned APP while opposing the prayer of bail submitted that allegation of penetrative sexual assault is available against petitioner, however, he fairly conceded that



the victim refused to join medical examination.

10. In view of aforesaid factual submission and by taking note of fact as statement of victim under Section 183 of BNSS *prima-facie* negate the allegation of rape/ kidnapping as raised against petitioner, coupled with fact that charge-sheet has already been submitted, where petitioner remains in custody since 24.10.2024, accordingly petitioner above named, is directed to be released on bail in connection with Barun P.S. Case No. 461 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 Addl. Sessions Judge VI cum Spl. Exclusive Judge (POCSO) Aurangabad (Bihar) /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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