

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25165 of 2025

Arising Out of PS. Case No.-115 Year-2024 Thana- Shivnarayanpur District- Bhagalpur

Kundan Choudhary @ Kundan Kumar, S/o Bablu Choudhary, R/o Village-
Santhali Tola, Ward No. 01, Mathurapur, P.S.-Shivnarayanpur, Dist-
Bhagalpur Petitioner

Versus

1. The State of Bihar
2. Chandani Kumari, D/o- Raju Mallick, R/o- Village- Mathurapur Mahua
Gachh Tar, P.S.- Shivnarayanpur, Dist.- Bhagalpur
... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the Opposite Party/s : Mr. Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 28-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with Shivnarayanpur P.S. Case No.115 of 2024 registered for
the offences under Section 64(2)(J) of the Bhartiya Nyaya
Sanihta (in short 'B.N.S.') and Section 4(1) 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 04.10.2024.

4. Allegation against the petitioner is to commit
penetrative sexual assault upon victim/informant aged about 16
years.



5. It is submitted by learned counsel that in fact the petitioner and victim established physical relation out of her own sweet will and when this matter came into knowledge of the mother of informant, when petitioner re-visited to her home, the present FIR was lodged. It is further submitted that even as per FIR, it nowhere appears that the relation was established forcefully. It is pointed out that the allegation as raised is completely false, as on very next day, the informant was examined medically i.e. on 13.10.2024, where the doctor categorically opined that no clinical evidence found regarding recent sexual intercourse, making allegation *prima facie* false *qua* penetrative sexual assault/rape. It is also submitted by learned counsel that even as per statement of victim recorded under Section 180 of the BNSS, it can be gathered that alleged relation was not established forcefully, which also suggest false implication on its face, if taken into consideration collectively with medical report of the victim. 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 moreover, the petitioner is a man of clean antecedent.



6. Learned APP opposed the prayer for grant of bail to the petitioner.

7. In view of aforesaid facts and circumstances, *prima facie* considering the nature of accusation and also by considering the medical report of the victim, coupled with the fact that investigation of this case is already completed, where petitioner is in custody since 04.10.2024, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court of POCSO-cum-Additional District and Sessions Judge-VII, Bhagalpur in connection with Shivnarayanpur P.S. Case No.115 of 2024, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short 'CrPC')/under Section 480(3) of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS').

(Chandra Shekhar Jha, J.)

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