

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25631 of 2025

Arising Out of PS. Case No.-1 Year-2025 Thana- MAHILA P.S District- West Champaran

Jitendra Kumar S/o Triloki Mahto @ Triloki Prasad R/o vill - Jarar, P.s.-
Laukariya, Distt.- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. X D/o Hansraj Kaji R/o vill- Mijhauli, P.s.- Laukariya, Distt.- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Adv
For the Opposite Party/s	:	Mr. Anil Kumar Singh No. 1, APP
For the Informant	:	Mr. Shashibhushan Kumar, Adv
	:	Ms. Arti Kumari, Adv
	:	Mr. Priyesh Anand, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 30-07-2025 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 Mahila
P.S. Case No. 01 of 2025 registered for the offences under
Sections 115(2) and 64 of the B.N.S. and Section 4 of the POCSO
Act.

3. The petitioner is named in the F.I.R. and is in custody
since 01.02.2025.

4. The allegation against the petitioner is to commit
rape/penetrative sexual assault upon victim.

5. Learned counsel appearing on behalf of the petitioner



submitted that even from the facial perusal of FIR it can be gathered safely that it is not a case of rape/penetrative sexual assault and admittedly physical relation established between the parties out of their consent, where victim was found minor at the date of occurrence but slightly less than 18 years. It is submitted that nature of allegations as raised through FIR prima-facie attracts offence punishable under Section 69 of the B.N.S. It is submitted that medical report does not corroborate with the allegation as no recent evidence of sexual assault was found. It is pointed out that as per FIR the date of last occurrence was 30.10.2024, but FIR in issue was lodged on 02.01.2025 i.e., after inordinate delay of two months without any explanation. While concluding the argument it is submitted that petitioner is man of clean antecedent, and moreover, investigation has already completed, and as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer for bail submitted that victim on the date of occurrence was minor. However, he could not dispute the factual submission as advanced by learned counsel for the petitioner. In support of his submission learned counsel relied upon the legal report of Hon'ble Supreme



Court as available through **Criminal Appeal No. 263 of 2022 dated 21.02.2022**, where bail granted by learned Single Judge of Jharkhand High Court was rejected by Hon'ble Supreme Court considering the fact that despite love affairs the victim was minor on the date of occurrence.

7. Taking contrary note of the submissions as advanced aforesaid learned counsel for the petitioner submitted that as per school certificate, date of birth of victim is 10.02.2007 and on the date of lodging of this FIR she was about 17 years and 11 months i.e., on the verge of majority, whereas the order relied upon by learned counsel for the informant, age of victim was 13 years as per her Aadhar Card. It is submitted that with all probability upon radiological examination victim would be major on the date of occurrence.

8. In view of aforesaid facts and circumstances as mentioned above and by taking note of fact as prima-facie physical relation alleged to be established on false pretext of marriage, where FIR in issue was lodged after delay of two months of the occurrence without explaining any reason for such inordinate delay, coupled with the fact as petitioner remains in custody since 01.02.2025, accordingly above named petitioner, is directed to be released on bail in connection with Mahila P.S. Case No. 01 of



2025 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned District and Additional Sessions Judge 7th cum Special Judge POCSO, Bettiah, West Champaran/concerned court, subject to the conditions as mentioned under Section 480(3) of the B.N.S.S. with further conditions:-

(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(Chandra Shekhar Jha, J.)

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