

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29184 of 2025

In
CRIMINAL APPEAL (SJ) No.84 of 2025

Arising Out of PS. Case No.-228 Year-2024 Thana- VAISHALI District- Vaishali

Laldev Mahto, Son of Shree Durga Mahto, resident of village-Imaliya Dih,
P.S.- Kathaiya, Dist- Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar
2. Sunita Devi, Wife of Rupchandra Paswan, resident of village-Madhampur
Ram, P.S.- Vaishali (Belsar OP), Dist- Vaishali

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha, Advocate

For the Opposite Party/s : Ms. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 10-09-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with

Vaishali P.S. Case No.228 of 2024; POCSO G.R. No.90 of 2024

registered for the offences punishable under Sections 376 of the

Indian Penal Code (in short 'IPC'), Section 8 of the Protection of

Children from Sexual Offences Act (in short 'POCSO Act') but,

later on, 450, 376-AB of IPC, Sections 4 & 6 of the POCSO Act

as well as Sections 3(1)(w)(i)(ii) and 3(2)(va) of the Scheduled

Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. The accused/petitioner is named in the FIR and is

in custody since 26.06.2024.



4. Allegation against the petitioner is to commit rape/penetrative sexual assault upon daughter of informant aged about 13 years while sleeping in her room on intervening night of 23rd June, 2024.

5. It is submitted by learned counsel appearing for the petitioner that the petitioner is son-in-law of the neighbour of the informant with whom informant was in inimical terms and for said reason, the petitioner has been implicated falsely with present case. It is submitted that if the allegation on face as raised through FIR be accepted true then certainly, upon medical examination, a serious injuries must be noticed upon victim but, no such injuries either external or internal was noticed upon victim. It is submitted that in the background of pervious enmity, tutoring of statement as recorded under Section 164 of the Code of Criminal Procedure (in short 'CrPC') supporting the occurrence cannot be ruled out.

6. Arguing further, it is submitted that despite of custody of petitioner for about one year and three months, even charge could not framed in this matter and, therefore, there is complete defiance of provision as available under Section 35(1) of the POCSO Act regarding examination of victim before the



court of law. In this context, it is also submitted that therefore the conclusion of trial within preferred timeline of one year as prescribed under Section 35(2) of the POCSO Act also appears remote. 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. The petitioner claimed clean antecedent.

7. Learned Spl.P.P. while opposing the prayer of bail submitted that the allegation of penetrative sexual assault/rape is specifically available against petitioner, which is supported by the victim through her statement as recorded under Section 164 of the CrPC.

8. As per office report, notice was refused to accept by father-in-law of O.P. No.2. In this context, it is also pointed out by Ms. Usha Kumari No.1, learned Spl. P.P. appearing for the State that the informant was duly informed regarding present pending proceeding in terms of order dated 30.08.2025 of this Court. Despite of all such information, the informant has failed to join the present pending proceeding.

9. In view of aforesaid factual submissions and by



taking note of fact that even charge could not framed in this matter despite of custody of one year and three months of the petitioner, where conclusion of trial appears a remote aspect, defeating the provision of Section 35(2) of the POCSO Act, as petitioner remains in custody since 26.06.2024, 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 District and Additional Sessions Judge-VI-cum-Special Judge, POCSO, Hajipur, Vaishali in connection with Vaishali P.S. Case No.228 of 2024; POCSO G.R. No.90 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.)

Sanjeet/-

U		T	
---	--	---	--

