

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29949 of 2025

Arising Out of PS. Case No.-52 Year-2024 Thana- Bharatkhand District- Khagaria

Nitish Kumar, S/o Chhatish Muni, Resident of Village-Keriya, P.S.-
Bharatkhand, District- Khagaria

... .. Petitioner

Versus

1. The State of Bihar
2. Mantu Mani, S/o Kere Muni, resident of village-Keriya Post Office-Kolwara
P.S.- Bharatkhand, Dist-Khagaria

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No.1, APP

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 Bharatkhand P.S. Case No.52 of 2024 registered for the

offences punishable under Sections 96, 351(2) and (3), 352

read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (for short

'B.N.S.').

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

in custody since 05.10.2024.

4. Allegation against the petitioner is to kidnap the

minor daughter of informant aged about 14 years along with



other co-accused persons in the early morning of 19.09.2024 for the purpose of illicit intercourse/marriage with another person. The matter was reported to the parents of petitioner by the parents of victim, whereafter they were abused and assaulted.

5. It is submitted by learned counsel appearing for petitioner that the statement of victim was recorded after recovery, where she categorically stated while recording her statement under Section 183 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS') that she went along with accused/petitioner out of her own sweet will and solemnized marriage. It is pointed out that the allegation of kidnapping and sexual assault completely negated by victim. It is submitted that upon medical examination, nothing incriminating surfaced, which may support the allegation *qua* penetrative sexual assault/rape. Arguing further, it is submitted that despite of custody of petitioner for about eleven months, not even victim was examined by the trial court in view of Section 35(1) of the Protection of Children from Sexual Offences Act (in short 'POCSO Act') and,



therefore, the conclusion of trial within preferred timeline of one year in view Section 35(2) of the POCSO Act appears a remote aspect. 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 and moreover the petitioner is a man of clean antecedent.

6. Learned APP while opposing the prayer for bail submitted that the allegation is specific against petitioner *qua* kidnapping/penetrative sexual assault as per FIR. However, learned APP could not dispute the statement of victim as recorded under Section 183 of the BNSS, as discussed aforesaid.

7. Learned APP further informed to this Court that the informant was informed by concerned S.H.O. regarding present pending proceeding on 04.09.2025. The service report submitted to this Court, which was taken on record. Despite of information regarding present pending proceeding, the informant has failed to join.

8. In view of aforesaid factual submissions and by



taking note of fact as *prima facie* allegation of penetrative sexual assault/rape and kidnapping completely negated by victim while recording her statement under Section 183 of the BNSS, coupled with the fact that trial of this case is not likely to conclude within preferred timeline of one year as available under Section 35(2) of the POCSO Act, where petitioner, who is a man of clean antecedent, remains in custody since 05.10.2024, 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 Judicial Magistrate-1st Class, Khagaria in connection with Bharatkhand P.S. Case No.52 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 BNSS.

(Chandra Shekhar Jha, J.)

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