

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31211 of 2025

Arising Out of PS. Case No.-150 Year-2025 Thana- BANJARIA District- East Champaran

Aftab Alam Son of Safil @ Safik Miya Resident of village - Churiharwa Tola,
P.S.- Banjariya, District - East Champaran

... .. Petitioner

Versus

1. The State of Bihar
2. Arun Kumar Tiwari Son of Late Kamaldev Tiwari Resident of village -
Chailaha Pakariya, Ward No.- 01, P.S.- Banjariya, District - East Champaran
3. Arun Kumar Tiwari S/O Late Kamaldev Tiwari R/V Chailada Pakadia, Ward
No.)1, P.S. Banjaria, District - East Champaran

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar, Advocate Mr.Hemant Ray, Advocate
For the	:	Mr.Mritunjay Kumar Nirala, APP
For the Informant	:	Mr.Adarsh Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 01-09-2025 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. The accused/petitioner seeks bail in connection

with Banjariya P.S. Case No. 150 of 2025 registered for the

offences under Sections 137(2), 96, 3(5) of the Bhartiya

Nyay Sanhita, 2023 (in short, the 'B.N.S.') and section 8 of

the POCSO Act.

3. The accused/petitioner is named in the First

Information Report and is in custody since 10.03.2025.

4. Allegation against the petitioner is to kidnap the



minor sister of the informant aged about 16 years for the purpose of illicit intercourse/marriage.

5. It is submitted by learned counsel appearing on behalf of the petitioner that from the statement of victim as recorded under section 183 of the B.N.S.S., it can be safely gathered that victim negate the allegation of kidnapping and sexual assault as alleged to be raised by the informant, who is none but the brother of the victim.

6. It is submitted that upon radiological examination, the age of the victim was found between the age group of 18-19 years and, therefore, on this score, the lodging of the present case under POCSO Act appears questionable.

7. It is further pointed out that the petitioner remains in custody for about six months, but even victim could not be examined in view of section 35(1) of the POCSO Act and, therefore, conclusion of trial within preferred timeline of one year as available under section 35(2) of the POCSO Act is not appears possible.

8. While concluding argument, it is submitted that petitioner is a man of clean antecedent and, moreover,



investigation of this case is already completed, charge-sheeted has been submitted and as such, there is no chance of tampering with the evidence.

9. Learned A.P.P. for the State duly assisted by Mr. Adarsh Ranjan, learned counsel for the informant, while opposing the prayer for bail, submitted that on the alleged date of occurrence, the victim, as per school certificate, was minor, but he could not disputed the statement as made by the victim, negating sexual assault and kidnapping as submitted aforesaid.

10. In view of aforesaid factual submission and by taking note of the fact as the victim categorically negate the allegation of kidnapping and penetrative sexual assault/rape against petitioner while recording her statement under section 183 of the B.N.S.S. coupled with the fact that even till now the victim could not examined by the learned trial court within the meaning of section 35(1) of the POCSO Act, where petitioner remains in custody since 10.03.2025, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand



only) with two sureties of the like amount each to the satisfaction of learned 6the Additional Sessions Judge-cum-Exclusive Special Judge, Motihari, East Champaran, in connection with Banjariya P.S. Case No. 150 of 2025, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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