

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30568 of 2025

Arising Out of PS. Case No.-3 Year-2025 Thana- PHULWARIYA District- Gopalganj

Rajesh Sah Son of Laxman Sah Resident of Village - Sanah Madho,
P.S.- Uchkagaon, Distt.- Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar
2. Rahmat Son of Nabu Resident of village - Faiznagar, P.S.- Bhutha,
Distt.- Bareilly (Uttar Pradesh) at present Resident of village -
Raghunandanpur, P.S.- Phulwariya, Distt.- Gopalganj.

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Dewanand Tiwari, Advocate
For the Opposite Party/s :	Mr.Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 07-10-2025 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 Phulwariya P.S. Case No. 03 of 2025 registered for the offences under Sections 137(2), 96, 64(1) of the Bhartiya Nyay Sanhita, 2023 (in short, the 'B.N.S.') and section 4 and 6 of the Protection of Children from Sexual Offences Act (in short the, "POCSO Act").

3. It is pointed out by learned counsel for the petitioner that despite of best effort, notice could not serve upon the informant/O.P. No.2 as



the address of informant could not traced out.

4. The accused/petitioner is named in the First Information Report and is in custody since 07.01.2025.

5. Allegation against the petitioner is to kidnap the minor daughter of the informant aged about 17 years for the purpose of illicit intercourse/marriage with another person.

6. It is submitted by learned counsel appearing on behalf of the petitioner that the victim daughter of the informant, who was about 18 years, was in love affairs with this petitioner and out of her own will, she solemnized marriage with this petitioner in a Temple situated at Thawe, District – Gopalganj.

7. It is submitted that as the marriage of victim was not approved by her parents, the present false case was lodged against this petitioner.

8. In this context, learned counsel pointed out that the factum of marriage was also supported by the victim herself while recording her



statement under section 183 of the B.N.S.S. It is submitted that even the medical report is also not suggesting any incriminating in support of allegation as penetrative sexual assault/rape, as alleged, was committed upon the victim daughter of the informant.

9. Arguing further, it is submitted that despite custody of about (9) nine months, not even a single prosecution witness was examined in this case. It is submitted that non-examination of victim within one month of date of cognizance, which was taken on 09.04.2025, is in violation of the provisions as available under section 35(1) of the POCSO Act. It is submitted that in view of delay, conclusion of trial of this case is not likely to be conclude within preferred timeline of one year in view of section 35(2) of the POCSO Act.

10. While concluding argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is completed and as such, there is no chance of tampering with the evidence.



11. Learned A.P.P. for the State, while opposing the prayer for bail of the petitioner, submitted that allegation is specific against this petitioner, however he could not disputed the aforesaid factual submission as advanced by learned counsel for the petitioner.

12. In view of aforesaid factual submission and by taking note of the fact as the allegation of kidnapping and rape was raised in the background of love affairs, where not even a single witness including the victim was examined as provisioned under section 35(1) of the POCSO Act, accordingly, petitioner above-named 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 District & Additional Sessions Judge-VI-cum-Special Judge, POCSO, Gopalganj, in connection with Phulwariya P.S. Case No. 03 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.").



Rajeev/-

(Chandra Shekhar Jha, J)

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