

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31322 of 2025

Arising Out of PS. Case No.-322 Year-2024 Thana- RANIYATALAB District- Patna

Bikash Kumar @ Vikash Kumar S/O Late Niraj Paswan Resident of Village-
Kab, P.S-Ranitalab, District-Patna, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rudal Paswan S/O Taleshwar Paswan R/O Village- Kab, P.S- Ranitalab,
Distt.- Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Rajesh Kumar, Adv.
For the Opposite Party/s :	Mr. Raj Ballabh Singh, Adv.
	Mr. Shiv Kr. Prabhakar, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 14-10-2025 Heard the parties.

2. The petitioner seeks bail in connection with
Ranitalab P.S. Case No. 322 of 2024 registered for the
offence under Sections 64, 352, 351(2), 3(5) of the BNSS
and Section 4 and 6 of POCSO Act.

3. The petitioner is named in the F.I.R. and is in
custody since 20.08.2024.

4. The allegation against the petitioner is to commit
penetrative sexual assault upon the daughter of the informant
about 14 years when she went to purchase medicine from the
shop of the petitioner at about 9 PM on the date of
occurrence.



5. Learned counsel appearing on behalf of the petitioner submitted that upon radiological examination the victim was found about 18 years and she was in love affairs with this petitioner. It is pointed out that the allegation *qua* penetrative sexual assault by this petitioner appears false and was raised only while the victim was found talking with petitioner on its shop. It is pointed out that when the victim was noticed talking by her parents she went on her own to the hut (*jhopri*) of this petitioner which was constructed near to the shop and from same hut (*jhopri*) victim was recovered on early morning by police. It is submitted that as the love affairs of the victim was not approved by her parents, the present false allegation of penetrative sexual assault was raised against this petitioner which is evident from the fact that nothing incriminating transpires upon medical examination upon victim in support of the allegation.

6. Arguing further, it is submitted that the petitioner is in custody since 20.08.2024 but even charge could not frame in this matter. It is submitted that provisions of Section 35(1) of POCSO Act was completely defied and further the



preferred timeline of one year as available under Section 35(2) of POCSO Act as to conclude the trial from the date of cognizance appears crossed. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, as such, there is no chance of tampering with the evidence.

7. Learned APP duly assisted by Mr. Raj Ballabh Singh and Mr. Shiv Kr. Prabhakar learned counsels for the informant while opposing the prayer of bail submitted that the allegation *qua* penetrative sexual assault is available against this petitioner. It is pointed out that rape/ penetrative sexual assault is legal finding therefore none finding of injury doesn't lead to a conclusion *ipso facto* that the rape was not committed.

8. In view of aforesaid factual submission and by taking note of fact as despite of remaining in custody for more than one year, even charge could not frame in this matter suggesting defiance of the legal provisions as available under section 35(1) of the POCSO Act and also that the trial of this case is not likely to conclude within preferred timeline of one



year as provisioned under Section 35(2) of the POCSO Act, coupled with fact that investigation of this case already completed, where petitioner remains in custody since 20.08.2024, accordingly petitioner above named, is directed to be released on bail in connection with Ranitalab P.S. Case No. 322 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge VII cum Special Judge POCSO , Patna /concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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