

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34604 of 2025

Arising Out of PS. Case No.-288 Year-2024 Thana- NADI P.S. District- Patna

Sonu Kumar, S/o Shiv Sahani, Resident of Village-Samaspur (Kali Asthan),
P.S.- Nadi, District- Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Guriya Devi, W/o Bablu Sahni, Resident of Village-Samaspur (Kali Asthan),
P.O.- Fatuha, P.S.- Nadi, District- Patna

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Mishra, Advocate Ms. Spriha Shreya, Advocate
For the Opposite Party/s	:	Mr. Syed Ehteshamuddin, APP
For the Informant	:	Mr. Anil Kumar Singh, Advocate Mr. Pravin Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 14-10-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State duly assisted by

learned counsel for the informant.

2. The accused/petitioner seeks bail in connection

with Special (POCSO) Case No.89 of 2025 arising out of Nandi

P.S. Case No.288 of 2024 registered for the offences

punishable under Sections 137(2), 140(3), 351(2)(3) 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 30.09.2024.



4. Allegation against the petitioner is to commit penetrative sexual assault/rape upon minor daughter of informant aged about 14 years after kidnapping her.

5. It is submitted by learned counsel that the victim daughter of informant was in love affairs with petitioner. She left her parental home on her own. It is submitted that as the father of informant was in habit to physically assault her, therefore, the victim left her home on her own and joined this petitioner by negating completely any sexual assault and kidnapping as same is available out of statement of victim recorded under Section 183 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS'). It is also submitted that the victim has refused to join medical examination. 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 petitioner is a man of clean antecedent.

6. Arguing further, it is submitted that as per computer status (CIS) of district court web-site, still this matter is fixed for framing of charge despite of fact that petitioner remains in custody for more than one year i.e.



30.09.2024, which is in complete defiance of provision of Section 35(1) of the Protection of Children from Sexual Offences Act (in short 'POCSO Act'). It is pointed out that in view of same, the preferred timeline as to conclude the trial within one year as per provision under Section 35(2) of the POCSO Act also appears crossed in this case and progress of case clearly suggest that the trial of this case not likely to conclude in near future.

7. Learned APP duly assisted by Mr. Anil Kumar Singh, learned counsel appearing for the informant while opposing the prayer for bail submitted that the daughter of the informant was aged about 14 years at the time of occurrence. It is submitted that even at the time of recording of statement under Section 183 of the BNSS, she disclosed her age as seventeen years and six months and, therefore, the consent of victim is immaterial.

8. In view of aforesaid factual submissions and by taking note of fact as victim categorically negated allegation of kidnapping and sexual assault *qua* petitioner rather she stated categorically while recording her statement under Section 183 of the BNSS that out of her parental torture, she left her home



out of her own sweet will and joined this petitioner, coupled with the fact that investigation of this case is already completed and moreover the charge even could not framed in this case despite of custody of more than one year i.e. since 30.09.2024, suggesting further that trial is not likely to conclude in near future, as discussed aforesaid, 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 Excise Special Judge (Rape and POCSO Act), Patna in connection with Special (POCSO) Case No.89 of 2025 arising out of Nandi P.S. Case No.288 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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