

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35560 of 2025

Arising Out of PS. Case No.-31 Year-2024 Thana- AAYAR District- Bhojpur

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Sushil Kumar @ Rahul S/o Satyendra Ray @ Satyendra Yadav Resident of
Village- Masarh, PS- Udwant Nagar, Dist- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mahesh Yadav S/o Late Nifikir Yadav R/o vill and P.O. - Ichari, P.S.- Aayer,
Distt.- Bhojpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Ekta Vats, Advocate
Mr.Manish Chandra Gandhi, Advocate
For the Opposite Party/s : Mr.Anil Kumar Singh No.1,APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 08-12-2025 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 Ayar P.S. Case No. 31 of 2024 registered for the

offences under Sections 366(A) of the Indian Penal Code and

section 8 of the POCSO Act.

3. The accused/petitioner is named in the First

Information Report and is in custody since 19.03.2025.

4. Allegation against the petitioner is to kidnap the

minor daughter of the informant for the purpose of illicit

intercourse/marriage with another person.



5. It is submitted by learned counsel appearing on behalf of the petitioner that as per statement of the victim recorded under section 183 of the B.N.S.S., it appears that she was not kidnapped by this petitioner. It is submitted that the matter was taken up by father of this petitioner thereafter by way of agreement between the parents, the marriage of petitioner with the victim was solemnized in a temple of Buxar.

6. It is further pointed out that soon after solemnization of marriage, they were called by the police from where she was sent back to the Observation Home in connection with the present case. It is also submitted that the victim refused to join the medical examination and, therefore, scientific allegation qua penetrative sexual assault not appears available on record.

7. Arguing further, it is submitted that victim herself, while recording her statement under section 183 of the B.N.S.S., claimed her age as 18 years, therefore, in want of document as required in view of section 94(2) of the Juvenile Justice (Care & Protection of Children) Act, 2015, it



cannot be said that victim is *prima facie* child in view of section 2(d) of the POCSO Act, for the reason that no approved document of the birth certificate issuing from the first attending school or the certificate of matriculation board/Municipality was collected during investigation by the police in support of the age of the victim. It is also pointed out that in marriage certificate issued by Notary, the age of victim shown as 20 years.

8. 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 factual statement made by the victim herself as submitted aforesaid by the learned counsel appearing on behalf of the petitioner.

9. It is submitted by learned A.P.P. that information qua present pending proceeding has already given to the informant through concerned S.H.O. Service report of said effect submitted across the board which was taken on record.

10. Despite of valid service of notice, none appeared on behalf of the informant to join the present



proceeding.

11. In view of aforesaid factual submission and by taking note of the fact as *prima facie* allegation of rape and sexual assault appears not available against the petitioner, coupled with the fact that, investigation of this case is already completed, where petitioner remains in custody since 19.03.2025, 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 6th Additional District & Sessions Judge-cum-Special Judge, POCSO, Bhojpur, Ara/concerned court, in connection with Ayar P.S. Case No. 31 of 2024, 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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