

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41586 of 2025

Arising Out of PS. Case No.-167 Year-2024 Thana- Chakmesi District- Samastipur

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Suraj Kumar, Son of Sanjay Sahni @ Sanjay Kumar Sahni Resident of
Village-Bakhtiyarpur (Basanpatti), P.S.-Chakmehsi, Distt.- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. XYZ, D/o Sanjeet Kumar Ray, R/o Village – Dumrama, W. No. 08, P.S.-
Chackmahesi, District, Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shubhesh Pandey, Advocate.
For the Opposite Party/s : Mr.Anil Kumar Singh No. 1, APP.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

3 17-10-2025 Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Chakmehsi P.S. Case No. 167 of 2024 registered for the
offence punishable under Sections 126(2), 127(2), 137(2), 96,
64, 351(2) and 3(5) of the BNS and Sections 4/6 of the POCSO
Act.

3. As per the allegation made in the F.I.R., the
petitioner along with co-accused Dashrath Kumar kidnapped the
informant. Specific allegation of committing rape with the



informant is against the co-accused Dashrath Kumar.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent and he has committed no offence as alleged. The allegation levelled against the petitioner is not specific rather general and omnibus. The petitioner has clean antecedent.

5. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner.

6. Having heard the rival submissions made on behalf of the parties and having perused the impugned order, I find that the statement of the victim was recorded under Section 164 Cr.P.C., which is referred in Para-42 of the case diary, to support the prosecution case, in which, she has disclosed that co-accused Dasrath Kumar in collusion with the petitioner took her to Samastipur and, thereafter, transported her to Kolkata, where said Dashrath Kumar committed sexual wrong with her. The cause title of the bail application reveals the age of the petitioner who allegedly also participated in the illegal act, as 18 years.

7. The learned District Court is directed to verify the age of the petitioner and if it is found that the petitioner is not minor and has actually attained the age of 18 years, considering the manner in which the crime has been committed, only



allegation against him is that he had also participated in the alleged offence, no physical or sexual assault has been alleged against the petitioner as would appear from the impugned order, however, the learned District Court must verify, at the same time, from the statement of the victim recorded under Section 164 Cr.P.C. and if he finds that allegation of any overt act or sexual wrong has been alleged against the petitioner by the victim, then in that case, petitioner don't deserve to be released on bail. In case, the victim has not alleged against the petitioner to have subjected her to any physical or sexual assault, then in that case, the petitioner is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (Rape & POCSO) Act, Samastipur in connection with Chakmehsi P.S. Case No. 167 of 2024, subject to the condition as laid down under Section 438(2) Cr.P.C / 482(2) BNSS.

8. The District Court is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically lose its force.



9. The bail application stands disposed of.

(Purnendu Singh, J)

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