

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49058 of 2025

Arising Out of PS. Case No.-79 Year-2024 Thana- MAHILA P.S. District- Patna

Samsida Khatoon @ Samsida Khatun W/o Md. Makbool Hussain @ Makbool
R/o Village- Bhutahi Tola- Mahuliya, Ward NO 1, Police Station- Sonabarsa,
District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Altamash Khan @ Mohammadulla Khan @ Altmash Khan @
Mohamdulla @ Md Altmash Khan s/o Late Md. Jilani Khan R/o mohalla-
Fathepur, ward no. 1, PS- Sonbarsa, Distt.- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate
For the Opposite Party/s : Mrs. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

2 25-07-2025 This application has been filed for cancellation of
the bail granted to the Opposite Party No. 2 *vide* order dated
17.04.2025 passed in Cr. Misc. No. 84061 of 2024.

2. Learned counsel for the petitioner has submitted
that from perusal of the aforesaid order dated 17.04.2025 it
seems that this Court had not taken into account the date of birth
of the victim from the matriculation certificate which is stated to
be 14.03.2008. The learned counsel has further submitted that
upon consideration of the age of the victim as per matriculation
certificate, the victim's age would be 16 years 5 months on the
date of occurrence. The learned counsel for the petitioner has
next submitted that though the age of the victim has been



ascertained as 17-19 years as per the radio-logical report, however, the principle of law is that the determination of age as per the matriculation certificate would prevail over the medical report. He has submitted that since the age as per the radio-logical report has been taken into account while granting bail to the Opposite Party No. 2, the bail may be canceled on account of age of the victim as per matriculation certificate being 16 years and 5 months.

3. This Court has perused the order dated 17.04.2025 and from perusal of the same, it appears that one of the consideration for granting bail was indeed the radio-logical report in which the age of the victim was found to be 17-19 years, however, the reference to the matriculation certificate was not given in the order granting bail, despite the fact that the same was brought to the knowledge of this Court being part of the case diary. This Court from the order dated 17.04.2025 also finds that apart from the radio-logical report this Court had also taken into account that there was a delay in lodging of the FIR and the victim girl was stated to have been frequently traveling to the said guest house earlier along with the petitioner.

4. In view of the same, this Court is not inclined to cancel the bail already granted to the Opposite Party No. 2 Md.



Altamash Khan @ Mohammadulla Khan and hence the application stands dismissed.

5. However, it is made clear that the observations made in the order dated 17.04.2025 and the present order shall not affect the trial in any manner and the case may be decided on its own merit, specially as far as the determination of the age of the victim is concerned, which shall be a matter to be adjudicated by the learned trial court after affording opportunity to both the sides.

(Sourendra Pandey, J)

Prakash/-

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