

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46953 of 2025**

Arising Out of PS. Case No.-16 Year-2024 Thana- SAMASTIPUR District- Samastipur

Ashutosh Anand S/O Amresh Roy @ Amresh Kumar, R/o Village- Kalyanpur
P.S.- Bibhutipur, District- Samastipur. Petitioner/s

Versus

1. The State of Bihar.
2. Manisha Kumari W/O Santosh Kumar R/O Vill.- Malinagar Simri, P.S.-
Chakmehsi, Dist.- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr.Pramod Kumar Singh, Advo
For the Opposite Party/s : Mr.Arun Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 11-11-2025 Heard learned senior counsel appearing on behalf

of the petitioner and learned APP appearing on behalf of the

State.

2. The petitioner seeks bail in connection with

Samastipur Town P.S. Case No. 16/2024, registered for the

offence under Sections 363, 366A, 34 of the Indian Penal

Code and cognizance was taken under Sections 366(A), 376

of the IPC and Section 4 of POCSO Act and Section 9 of Child

Marriage Restriction Act.

3. The accused/petitioner is named in the F.I.R. and

is in custody since 24.03.2025.

4. The allegation against the petitioner is to kidnap

the minor daughter of the informant aged about sixteen and

half years old for the purpose of illicit intercourse/marriage



with another person.

5. Mr. N.K. Agrawal, learned senior counsel appearing on behalf of the petitioner submitted that upon radiological examination victim was found above 18 years. It is pointed out that after recovery the statement of victim was recorded under Section 164 of Cr.P.C., where she categorically stated that she out of her own sweet will as she was in love with this petitioner went alongwith him and solemnized marriage and, thereafter, established physical relationship, out of which she becomes pregnant. It is pointed out by Mr. Agrawal that aforesaid statement of victim completely negate the allegation of kidnapping and sexual assault against the petitioner. Save and except technically as per school certificate, the daughter of the informant appears less than 18 years, nothing incriminating available against petitioner.

6. Arguing further, it is submitted that till now despite custody of the petitioner for about 8 months, only charge could frame in this matter and not even victim could examine till now, which is in complete defiance of the



provision of Section 35(1) of the POCSO Act. It is submitted that the aforesaid delay suggests on its face that trial of this case is not likely to conclude within preferred time line of one year as provisioned under Section 35(2) of the POCSO Act.

7. Learned APP while opposing the prayer of bail submitted that as per FIR, the daughter of the informant on the date of occurrence was minor as she was sixteen and half years old and, therefore, this is a case of elopement.

8. Considering the aforesaid factual submissions and by taking note of fact as the victim categorically negated the allegation of kidnapping and sexual assault against the petitioner, coupled with the fact that even victim could not examine by the learned trial court within the time line as provisioned under Section 35(1) of the POCSO Act, despite custody of petitioner about eight months, which further suggest that trial of this case is not likely to conclude within preferred time line of one year as available under Section 35(2) of the POCSO Act, accordingly, petitioner above named, is directed to be released on bail in connection with Samastipur Town P.S. Case No. 16/2024 on furnishing bail



bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (Rape and POCSO) Act, Samastipur/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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