

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48348 of 2025

Arising Out of PS. Case No.-321 Year-2024 Thana- IMAMGANJ District- Gaya

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Akash Kumar @ Akash Yadav S/o- Yogendra Yadav Village- Siddhpur PS-
Imamganj, Dist- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Waheeda Bano D/o- Rojan Miyan Village- Gangti Po- Maigra Ps- Imamganj
Dist- Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha, Advocate
For the Opposite Party/s : Mr.Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-09-2025 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with

Imamganj P.S. Case No. 321 of 2024 registered for the

offences under Sections 65(1), 3(5) and 333 of the Bharatiya

Nyaya Sanhita and section 4 & 6 of the POCSO Act.

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

custody since 01.12.2024.

4. The allegation against the petitioner is to commit

rape/penetrative sexual assault upon informant aged about

15 years after trespassing her house on 30.11.2024 at about



1 A.M. along with other co-accused persons.

5. Learned counsel appearing on behalf of the petitioner submitted that from the perusal of FIR on its face it can be gathered easily that victim was in love affairs with co-accused Mukesh Yadav since her school days. It is submitted that there is no direct allegation against the petitioner. It is submitted that as per radiological examination, the age of victim was found between the age group of 18-19 years, therefore, lodging the present case under POCSO Act also appears questionable.

6. It is submitted that despite having custody for about nine months even victim was not examined defeating provisions of Section 35(1) of the POCSO Act and, therefore, the conclusion of trial within preferred time period of one year in view of Section 35 (2) of the POCSO Act also appears remote. Arguing further, learned counsel submitted that nothing surfaced during the medical examination of victim, which may suggest any physical assault during the occurrence. It is also submitted that due to certain confusion present case was lodged against petitioner and upon



clarification, compromise was filed before learned Trial Court stating that matter stands compromised between the parties. Learned counsel pointed out that co-accused Mukesh Yadav @ Mukesh Kumar has already been granted bail by this Court through Cr. Misc. No. 19985/2025 dated 01.09.2025.

7. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has already completed, and as such, there is no chance of tampering with the evidence.

8. Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that thrust of allegation is available against petitioner and moreover, crime in question is not compoundable.

9. In view of aforesaid factual submission and by taking note of fact as despite custody for about nine months even victim could not examined before learned Trial Court defeating provisions of Section 35(1) of the POCSO and further conclusion of trial in view of Section 35(2) of the POCSO Act appears a remote aspect, coupled with the fact as petitioner remains in custody since 01.12.2024, 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 Special Judge-POCSO-cum-Additional District & Sessions Judge-VII, Gaya, in connection with Imamganj P.S. Case No. 321 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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