

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51878 of 2025

Arising Out of PS. Case No.-7 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

Shiva Yadav @ Shiv S/O Upendra Yadav R/O Village- Piparpanti, P.S- Nadi,
District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Adv. Mr. Vikas Kumar, Adv.
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, APP
For the Informant	:	Mr. Md. Musowir, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 12-11-2025 Heard the parties.

2. The petitioner seeks bail in connection with Naugachiya (Mahila) P.S. Case No. 07 of 2023 registered for the offence under Sections 366(A), 376, 504, 506 of IPC and Section 4 of POCSO Act.

3. The petitioner is named in the F.I.R. and is in custody since 13.11.2024.

4. The allegation against the petitioner is to kidnap informant who on the date of occurrence was aged about 16 years alongwith other co-accused persons for the purpose of illicit intercourse / marriage with another person.



5. Learned counsel appearing on behalf of the petitioner submitted that occurrence took place in year 2022 where victim alleged to drop by petitioner himself on 08.02.2023 near to Zeromile, Naugachiya. It is submitted that in view of same it cannot be said that this is a case of kidnapping. It is pointed out that out of affairs, as informant was desirous to solemnize her marriage with petitioner, the present false case was raised against him. It is submitted that even the petition *qua* occurrence was given to S.P., Naugachiya on 09.02.2023, however, the FIR, in issue, was registered on 01.03.2023. It is submitted that this much belated FIR *qua* occurrence raised serious doubt as despite of missing of informant from her parental home no information was given to police authority by any family members for long nine months.

6. Arguing further, it is pointed out that petitioner is in custody since 13.11.2024, the date on which the cognizance was taken and still till date the victim could not examined which is in complete defiance of Section 35(1) of POCSO Act and on this ground alone petitioner deserves



bail. It is further submitted that other co-accused person namely, Jai Hind Yadav against whom allegation of rape is also available was granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 66665 of 2023 dated 06.12.2023. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP duly assisted by learned counsel for the informant while opposing the prayer of bail submitted that the allegation of rape and kidnapping is specifically available against this petitioner, however, he could not disputed the aforesaid factual submissions as advanced by learned counsel for the petitioner.

8. In view of aforesaid factual submission and by taking note of fact as FIR, in issue, was lodged almost after 9 months of the first occurrence which alleged to be taken place in June, 2022, coupled with the fact that similarly situated co-accused has already granted bail as discussed



aforesaid, and further even the victim could not examined within timeline in view of Section 35(1) of POCSO Act, coupled with fact that investigation of this case already completed where petitioner remains in custody since 13.11.2024, accordingly petitioner above named, is directed to be released on bail in connection with Naugachiya (Mahila) P.S. Case No. 07 of 2023 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 Court of POCSO cum VII Addl. Sessions Judge, Bhagalpur /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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