

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56501 of 2025

Arising Out of PS. Case No.-65 Year-2024 Thana- KANGLI District- West Champaran

Khobari Bin @ Ramashish Bin @ Ramashish Mukhiya S/o Late Vishwanath
Mukhiya R/o Gaad, Gamhariya, P.s.- Kangali, Distt.- West Chamapran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. X S/o Jhaman Bin R/o Gaad, Gamhariya, P.S.- Kangali, Distt.- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-11-2025 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 Kangli P.S. Case No. 65/2024 corresponding to
POCSO Case No. 201/2025 registered for the
offence under Sections 65(1), 75, 351(2), 31(5) of
BNS and Section 4 and 6 of POCSO Act.

3. The accused/petitioner is named in the
F.I.R. and is in custody since 10.10.2024.

4. The allegation against the petitioner is
to commit penetrative sexual assault upon the
informant aged about 16 years.



5. Learned counsel appearing on behalf of the petitioner submitted that under the garb of physical assault, the present allegation of sexual assault was raised against the petitioner out of local disputes and differences. It is submitted that upon medical examination, nothing incriminating surfaced which may suggest that he was indulged in sexual activity, rather scratch mark over anterior chest and abrasion over back on right side was noticed, which also appears in contradiction to the statement of victim that she after biting petitioner fled away from place of occurrence as no biting mark was noticed upon medical examination. It is also submitted that nothing incriminating surfaced upon medical examination of victim also which may suggest that she was subjected to recent intercourse.

6. Arguing further, it is submitted by learned counsel that the petitioner is in custody since 10.10.2024 i.e. more than one year, where charge in this matter was framed on 21.05.2025 and, thereafter, not even a single prosecution



witness including victim was examined which is in complete defiance of the provision as available under Sections 35(1) and 35(2) of the POCSO Act. Explaining criminal antecedent, it is submitted that petitioner is a man of clean antecedent.

7. Learned APP while opposing the prayer of bail submitted that allegation *qua* penetrative sexual assault is specifically available against this petitioner.

8. Upon perusal of record, it appears that notice as issued by this Court was received by brother of the informant, accordingly same deemed validly served upon the informant/opposite party no. 2.

9. Despite of service of notice, none turned up on behalf of the informant/opposite party no. 2 as to join the present proceedings.

10. Considering the aforesaid factual submissions and by taking note of fact as despite of custody of petitioner for more than one year i.e. since 10.10.2024 not even a single prosecution witness including victim could examine by learned



trial court, which completely appears in defiance of legal provisions as available under Section 35(1) of the POCSO Act, suggesting *prima facie* 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, accordingly, petitioner above named, is directed to be released on bail in connection with Kangli P.S. Case No. 65/2024 corresponding to POCSO Case No. 201/2025, 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 & POCSO Act, West Champaran at Bettiah/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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