

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59215 of 2025

Arising Out of PS. Case No.-117 Year-2025 Thana- RAJAON District- Banka

Hridya Yadav @ Hirday Kumar Yadav, S/- Changuri Yadav, Resident of Village-Kathrang, PS.- Rajoun, Dist- Banka.

... .. Petitioner

Versus

1. The State of Bihar
2. Manoj Kumar Mandal, S/o Chabbilal Mandal, resident of Village-Rasalpur P.O.- Rajawar P.S.- Rajoun, Dist- Banka.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Praveen Kumar, Advocate Mr. Ravi Prakash Dwivedi, Advocate Mr. Raushan Kumar, Advocate Mr. Saurabh Raj, Advocate
For the State	:	Mr. Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 03-12-2025 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection with Rajoun P.S. Case No.117 of 2025 registered for the offences punishable under Sections 64 read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (for short 'B.N.S.') as well as Section 4 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act').

3. The accused/petitioner is named in the FIR and is in custody since 18.03.2025.



4. Allegation against petitioner is to commit penetrative sexual assault upon minor daughter of informant aged about 13 years after kidnapping her on 12.03.2025 while she was in *baarat* procession along with her father. The alleged occurrence of penetrative sexual assault took place in nearby '*kabristan*'.

5. It is submitted by Mr. Praveen Kumar, learned counsel appearing for petitioner that considering the statement of victim as recorded under Section 183 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS'), it can be safely arrived at the conclusion that she visited place of occurrence out of her own sweet will after conversation with co-accused Nitish Yadav, negating the allegation of informant that she was kidnapped by the petitioner. It is submitted that out of previous acquaintance, the informant visited to petitioner and while they were found together, were apprehended by this informant. It is submitted that as love affair of victim daughter could not approved by informant with petitioner for any social reasons, the present false implication was raised.



6. Arguing further, it is submitted that even nothing transpired out of medical examination of victim and petitioner, which may suggest that any penetrative assault as alleged was committed upon. It is submitted that the seized garments of victim were sent for forensic examination but without obtaining the report of said forensic examination, the present charge-sheet was submitted only to prevent the petitioner to get default bail in view of Section 167 of the Code of Criminal Procedure (for short 'CrPC')/under Section 187 of the BNSS. It is submitted that in view of incomplete charge-sheet, the petitioner deserves bail.

7. Arguing further, it is submitted by Mr. Praveen Kumar that despite of custody of petitioner since last six months, cognizance in this matter was taken only in June, 2025 but, not even charge could be framed by learned trial court and, therefore, with aforesaid progress of trial, it can be safely said that same is not likely to conclude in near future. The petitioner claimed clean antecedent.

8. Learned APP opposed the prayer for grant of bail to the petitioner.



9. Despite of service, the informant/O.P. No.2 has not joined the present proceeding.

10. In view of aforesaid factual submissions and by taking note of overall nature of accusation as transpires out of FIR and also out of statement of victim, as discussed aforesaid, *prima facie* suggesting major contradictions *qua* occurrence, coupled with the fact that despite custody of nine months, almost there is no progress in trial as even charge could not framed in this case, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-6-cum-Special Judge POCSO, Banka in connection with Rajoun P.S. Case No.117 of 2025, subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the BNSS with further condition that:-

(i) that petitioner shall not contact or influence the victim or any other prosecution witnesses during pendency of trial in any manner, failing which the State/Informant may



raise prayer before learned trial court for cancellation of bail bond of the petitioner, which be decided by the learned trial court itself after giving an opportunity of hearing to the petitioner.

(Chandra Shekhar Jha, J.)

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