

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65080 of 2025

Arising Out of PS. Case No.-314 Year-2025 Thana- BIHTA District- Patna

Kapil Paswan, Son of Vakil Paswan, Resident of Village - Singhrakopa, P.S.-
Dulhin Bazar, District - Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Vishwamitra Devi, W/o Chanarik Paswan, R/o village-Raghopur P.S.-Bihta
Dist-Patna

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Satish Kumar, Advocate
For the State	:	Dr. Ajeet Kumar, APP
for the Informant	:	Mr. Sumit Kumar Singh, Advocate
		Mr. Shaishav Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-11-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State and learned counsel

appearing for the informant.

2. The accused/petitioner seeks bail in connection

with Special Case No.132 of 2025 arising out of Bihta P.S.

Case No. 314 of 2025 registered for the offences punishable

under Sections 137(2), 96, 65(2), 61(2) read with 3(5) of

the Bhartiya Nyaya Sanhita, 2023 (for short 'B.N.S.') as well

as Sections 4 and 6 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 10.05.2025.

4. As per FIR, petitioner, who is neighbour of paternal uncle of victim committed penetrative sexual assault upon daughter of informant aged about 12 years.

5. It is submitted by learned counsel appearing for petitioner that victim has refused for medical examination. It is also pointed out that FIR in issue was lodged with delay of four days, without any just explanation, making an afterthought implication. While concluding argument, it is submitted that investigation of this case is already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by Mr. Sumit Kumar Singh, learned counsel appearing for informant while opposing the prayer of bail submitted that the victim, who is aged about 12 years on false pretext of purchasing cloth was confined in a room and, thereafter, penetrative sexual assault was committed upon her by this petitioner, who is a married person. It is pointed out that non-availability of medical report does lead to conclusion *ipso facto* that penetrative sexual



assault/rape was not committed upon victim. It is further submitted that victim categorically supported the occurrence through her statement recorded under Section 183 of the Bhartiya Nagrik Surakhsa Sanhita, 2023 (in short ‘BNSS’), where she stated that this petitioner has committed rape upon her.

7. In view of aforesaid factual submissions and by taking note of incriminating statement of victim as recorded under Section 183 of the BNSS against the petitioner, the prayer of bail of petitioner stands rejected for the present.

8. As petitioner remains in custody since 10.05.2025, the learned Special Court is directed to conclude the trial positively within preferred timeline as provisioned under Section 35(2) of the POCSO Act.

(Chandra Shekhar Jha, J.)

Sanjeet/-

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