

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63748 of 2025

Arising Out of PS. Case No.-58 Year-2025 Thana- KHUTAUNA District- Madhubani

Vibhesh Kumar @ Vivek Kumar Sahu @ Vibhesh Kumar Sah, son of Ram Nand Sah @ Ram Nandan Sahu, R/o Birpur, Ward No. 12, P.S. - Lalmaniya, Dist. - Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. Damini Kumari, D/o of Late Rampravesh Singh, R/o Sihula, P.S.- Khutauna, Dist. - Madhubani.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ratnakar Jha, Advocate

For the Opposite Party/s : Ms. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 03-12-2025 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State duly assisted by learned counsel appearing for the informant.

2. The accused/petitioner seeks bail in connection with Khutauna P.S. Case No.58 of 2025 registered for the offences punishable under Sections 126(2), 115(2), 64 of the Bhartiya Nyaya Sanhita, 2023 (for short 'B.N.S.') as well as Sections 4 and 6 of the POCSO Act.

3. The accused/petitioner is named in the FIR and is in custody since 01.06.2025.

4. As per FIR, the petitioner alleged to commit rape



upon minor sister of informant aged about 16 years while she was returning from Khutauna market. The alleged occurrence took place on 04.05.2025 at about 7.45 p.m.

5. It is submitted by learned counsel appearing for petitioner that the FIR in issue for the occurrence dated 04.05.2025 was lodged on 05.05.2025, where this petitioner was specifically named. It is submitted that the name of petitioner was disclosed to informant by victim herself. It is pointed out that even as per FIR, the occurrence alleged to be committed by this petitioner only. It is submitted that the victim was examined medically on 06.05.2025 i.e. within 48 hours of the occurrence but, no injury in or around private part of victim and also upon her body was noticed, *prima facie* negating the allegation that the sexual assault as alleged was committed upon her. It is pointed that on the same very day, the statement of victim was also recorded before learned Judicial Magistrate under Section 183 of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS'), where she failed to name this petitioner rather she stated that two unknown persons after dragging her to nearby field, when she was



returning from Khutauna market committed rape upon her. It is pointed out that this statement of the victim completely negates the allegation against petitioner as raised through FIR.

6. Arguing further, it is submitted that till now only charge sheet has been submitted in this case and even charge could not framed against petitioner despite his custody for about five months.

7. Explaining criminal antecedents of petitioner, it is submitted that petitioner found involved in one more criminal case of petty nature i.e. of Bihar Prohibition and Excise Act, where he is on bail.

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

9. Learned counsel appearing for informant submitted that the allegation as per FIR is available against this petitioner. However, he could not dispute the aforesaid factual submissions as raised *qua* statement of victim recorded under Section 183 of the BNSS.

10. In view of aforesaid factual submissions and by



taking note of fact as victim *prima facie* failed to name this petitioner while recording her statement under Section 183 of the BNSS, coupled with the fact that investigation of this case is already completed, where petitioner remains in custody since 01.06.2025 with almost no progress in trial, 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-cum-Special Judge, POCSO Act, Madhubani in connection with Khutauna P.S. Case No.58 of 2025, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short ‘CrPC’)/under Section 480(3) of the BNSS.

(Chandra Shekhar Jha, J.)

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