

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73710 of 2024

Arising Out of PS. Case No.-109 Year-2024 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Prem Kumar S/O Mahesh Sah R/O Village- Ward No.07, Vishnupur, Devpura,
Bakhri, P.S- Naokothi, Distt.- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mausam Kumari D/O Sanjeet Sah R/O Village- Saidpur, P.S- Naokothi,
Distt.- Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. S.K. Lal, Advocate
For the Informant/s	:	Mr. Braj Bhushan Poddar, Advocate
For the Opposite Party/s	:	Mr.Md. Matloob Rab, APP

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

4 27-01-2025 Heard learned counsel for the petitioner; learned
counsel for the informant Mr. Braj Bhushan Poddar and learned
APP for the State.

2. The petitioner has prayed for regular bail in a case
registered for the offence punishable under Section 376 of the
Indian Penal Code and Sections 4 and 6 of the POCSO Act.

3. The case of the prosecution is that when informant's
mother has went to collect loans, her cousin brother (the
petitioner) entered in her house and committed rape with her.
After 5-6 days, when the mother of the informant was not at her
house, he again committed rape with her. After 2-3 days, he
again committed rape with her and he disclosed that he has
made video of the act and will not allow her to marry anywhere



and will send the video before marriage is fixed anywhere.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. It is next submitted that the father of the informant's has received some lands in *parcha* and the father of the petitioner was also demanding some land in the *parcha* land, for that, this case has been filed. From perusal of the statement of the victim and the FIR, it is clear that there is an inordinate delay in filing of the case and the statements do not concur rather there is material contradiction. In medical report also, no injury on private part has been found. It is further submitted that the petitioner is languishing in judicial custody since 31.07.2024.

5. Learned APP appearing for the state and learned counsel for the informant have opposed the prayer of regular bail and submitted that petitioner is having one criminal antecedent. It is next submitted that During course of investigation, the victim has given her statement under Section 161 and 164 of the Cr.P.C. as well. In her Statement under Section 161, she has stated that on the date of occurrence, when her mother has gone to the fields and sisters have gone to school, Prem Kumar entered in the house and committed rape



with her. After 5-6 days also he committed rape. It is further stated that the petitioner was threatening her of dire consequences. In her statement under Section 164 of the Cr.P.C., the victim has stated that the petitioner has entered in her house with a knife when she was alone and repeatedly committed rape with her and was threatening her to make the video viral. In this case, the first occurrence is of 18.01.2024 but the case was registered on 25.06.2024 i.e., five months after the occurrence. From the perusal of the FIR, it is clear that the petitioner is cousin brother of the informant.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Nawkothe P.S. Case No. 109 of 2024 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-VIth-cum-Exclusive Special Judge, POCSO Act, Begusarai.

(Ashok Kumar Pandey, J)

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