

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84184 of 2024

Arising Out of PS. Case No.-93 Year-2024 Thana- BANDHUWA KURAWA District- Banka

Kush Kumar @ Kush Kumar Yadav Son of Yogendra Yadav Resident of
Village - Bandhuwa Kurawa, P.S. - Bandhuwa Kurawa, District - Banka

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Yadav Son of Late Baldeo Yadav Resident of Village - Rangamari,
P.S. - Bandhuwa Kurawa, District - Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the Opposite Party/s : Mr. Surendra Prasad Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 27-08-2025 Heard the parties.

2. The petitioner seeks bail in connection with
Bandhuwa Kurawa P.S. Case No. 93 of 2024 registered for
the offence under Sections 96, 3(5) BNS and Section 8 of
POCSO Act.

3. The petitioner is named in the F.I.R. and is in
custody since 16.10.2024.

4. The allegation against the petitioner is to kidnap
the minor daughter of the informant aged about 15 years
alongwith other co-accused persons for the purpose of illicit
intercourse/ marriage with another person.



5. Mr. Praveen Kumar, learned counsel appearing on behalf of petitioner submitted that as per the statement of victim recorded under section 183 of BNSS, it transpires that it was the victim herself who instigate petitioner to solemnize marriage with her otherwise she would commit suicide. It is submitted that under said pressure and out of their affair the petitioner solemnized his marriage with victim in temple on 12.10.2024. It is pointed out that victim categorically stated while recording her aforesaid statement that her father being contractor is an influential person and he falsely implicated petitioner and his friends with present case. It is also submitted that the aforesaid statement nowhere suggests that the victim was kidnapped by petitioner or was sexually assaulted.

6. It is further argued that upon radiological examination victim was found between the age group of 17-19 years, therefore, lodging of present case under POCSO Act appears *prima-facie* questionable. It is further submitted that despite of the fact that petitioner is under custody since 16.10.2024, even victim could not examined by learned trial



court, in view of Section 35(1) of the POCSO Act and therefore, the conclusion of trial in view of Section 35(2) of the POCSO Act is a remote aspect and is not likely to conclude within preferred timeline of one year as prescribed. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP opposes the prayer of bail.

8. It is pointed out by learned APP that in terms of direction of this Court dated 19.08.2025, the information regarding present pending proceeding was given to victim/informant as he was informed by S.P., Banka.

9. It is pointed out that S.P., Banka informed through letter no. 241 dated 21.08.2025 that informant was informed regarding present pending proceedings.

10. Despite of aforesaid service of notice none appeared on behalf of informant to join present pending proceeding.



11. In view of aforesaid factual submissions and by taking note of fact as victim upon recovery *prima-facie* completely negate the allegation of sexual assault and kidnapping *qua* petitioner, coupled with fact that even victim could not examined within meaning of 35(1) of POCSO Act and there is all likelihood that trial could not be completed within preferred timeline of one year in terms of 35(2,) of POCSO Act, accordingly petitioner above named, is directed to be released on bail in connection with Bandhuwa Kurawa P.S. Case No. 93 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge 6 cum Special Judge, POCSO, Banka /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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