

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86356 of 2024

Arising Out of PS. Case No.-35 Year-2024 Thana- MAHILA P.S District- West Champaran

Ravi Kumar S/o Arjun Rao R/o - Bariyarwa, P.S - Choutarwa, District - west
Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nisha Kumari D/o Sanjay Singh R/o vill - Sonasati, P.S. - Shikarpur, Distt.-
West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Milind Kumar Mishra, Adv
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary, APP
For the Informant	:	Mr. Shashi Bhushan, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 31-07-2025 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Bettiah

Mahila P.S. Case No. 35 of 2024 registered for the offences under

Sections 70(2), 127(2), 251(2) & 3(5) of the Bharatiya Nyaya

Sanhita & Section 4 of the POCSO Act.

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

since 26.07.2024.

4. The allegation against the petitioner is to commit

rape/penetrative sexual assault upon informant, who on the date

of alleged occurrence was less than 18 years.

5. Learned counsel appearing on behalf of the



petitioner submitted that earlier the talk of marriage negotiations was in progress between the informant/victim and elder brother of petitioner, but for certain social reasons it could not materialize and out of that enmity present false case was lodged against petitioner. It is submitted that at best it is a case of consensual relation for the reason as alleged occurrence took place in the house of informant at about 1:00 AM, where admittedly door was opened by victim herself. It is also submitted that as per school certificate date of birth of victim is 10.09.2006, whereas occurrence took place on 10.07.2024, where victim was 17 years and 10 months old. It is further pointed that petitioner remains in custody for about one year and one month, where charge during the trial has been framed long back, but not even a single witness including victim herself was examined before learned Trial Court which is in violation of Section 35 (1) of the POCSO Act. It is submitted that there is no chance to conclude trial of the present case in view of Section 35 (2) of the POCSO Act and, therefore, on this score also petitioner is entitled for bail, who is a man of clean antecedent.

6. While concluding the argument it is submitted that FIR in issue was lodged after delay of 15 days of the occurrence, where upon medical examination of the victim and petitioner



nothing surfaced incriminating suggesting allegation as raised.

7. Learned APP duly assisted by learned counsel appearing on behalf of the informant, while opposing the prayer for bail submitted that rape/penetrative sexual assault is specifically available against this petitioner where the victim was minor on the date of occurrence, therefore, the petitioner does not deserve bail. In support of his submission learned counsel for the informant relied upon the order of the Hon'ble Supreme Court as available through **Criminal Appeal No. 263 of 2022 (Arising out of SLP.(Crl.) No. 9317 of 2021 dated 21.02.2022**, where he relied upon para no. 5 & 6 of the order. Further explaining the delay it is submitted by learned counsel that as the parents of victim were not available at home, as they were living somewhere else and only after their arrival present case was lodged against petitioner.

8. In view of aforesaid facts and circumstances as mentioned above and by taking note of fact as victim could not examined within stipulated time period of 30 days from the date of cognizance, where even after framing of charge not even a single witness was examined prima-facie suggesting that conclusion of trial within time period of one year in terms of Section 35 (2) of the POCSO Act is a remote aspect, coupled with the fact as



petitioner remains in custody since 26.07.2024, accordingly the above named petitioner, is directed to be released on bail in connection with Bettiah Mahila P.S. Case No. 35 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 Special Judge POCSO-cum-A.D.J-VI, West Champaran, Bettiah/concerned court, subject to the conditions as mentioned under Section 480(3) of the B.N.S.S.

(Chandra Shekhar Jha, J.)

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