

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86443 of 2024

Arising Out of PS. Case No.-37 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Basu Mahto Son of Surendra Mahto Resident of Village-Parsauni Bajidpur,
Police Station-Kalyanpur, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Renu Devi Wife of Vikram Mahto Resident of Village-Parsauni Bajidpur,
Police Station-Kalyanpur, District- East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman

For the Opposite Party/s : Mr. Syed Ehteshamuddin

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 01-08-2025 Heard the parties.

2. The petitioner seeks bail in connection with

Complaint Case No. 37 of 2019 registered for the offence

under Sections 341, 323, 342, 376/34 of the I.P.C. and

4/8 of POCSO Act.

3. The petitioner is named in the complaint and

is in custody since 04.10.2024.

4. In complaint case no. 37 of 2019 preferred

before learned 1st District and Addl. Sessions Judge *cum*

Special Judge POCSO Act, East Champaran, Motihari,



where learned trial court, being court of original jurisdiction, took cognizance under Section 341, 323, 341, 342, 376, 34 of IPC and 4/8 of POCSO Act against petitioner, where as per complaint minor daughter of the complainant aged about 10 years, was raped on 06.05.2019, while she was in field in connection of grazing her goat.

5. Learned counsel appearing on behalf of the petitioner submitted that out of neighborhood dispute and differences, the present false complaint case was lodged against petitioner making minor daughter instrumental. It is pointed out that if the narration of complaint be taken into consideration then certainly the occurrence of physical assault took place at 4 P.M. on 06.05.2019 whereas the occurrence of rape took place on same very day at about 12 hours. It is submitted that the complainant and victim approached primary health center only after the second occurrence which took place at 4 P.M. but upon the perusal of OPD slip dated 06.05.2019,



it appears that complainant namely, Renu Devi and victim approached hospital at about 1:30 and 1:35 P.M. whereas one Rajpati was examined at 1:15 P.M. They have been diagnosed primarily with headache and bodyache with advice to contact local police. It is submitted that apparently the medical report as obtained from primary hospitals appears fabricated and forged in support of allegations for the reasons that it was obtained much prior to the occurrence.

6. Traveling further, it is submitted that with all such contradictions *qua* occurrence petitioner is in custody since 04.10.2024, and still this matter is pending for the examination of prosecution witnesses and trial of this case is not likely to complete within the prescribed time period as available under Section 35(2) of the POCSO Act.

7. Learned APP duly assisted by learned counsel appearing for the informant could not disputed the aforesaid factual submission as advanced by learned



counsel for the petitioner. It is conceded by learned APP that it is a complaint case and moreover except primary health center report as discussed aforesaid victim was not examined medically on the point of allegation.

8. Taking note of all such aforesaid factual submission as time of examination of victim and complainant as per OPD slips of primary health center, appears contradictory *qua* time of occurrence as alleged, coupled with fact that still prosecution witnesses remains to be examined, where petitioner already remains in custody since 04.10.2024 and as such chance to conclude the trial within prescribed time as available under Section 35(2) of the POCSO Act, appears a remote aspect, accordingly petitioner above named, is directed to be released on bail in connection with Complaint Case No. 37 of 2019 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 7th District Addl. Cum Special Judge POCSO Act, East Champaran at Motihari



/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

9. Before parting this order, it appears apposite to direct the learned trial court to examine the genuineness of the complaint, in view of aforesaid discussions at appropriate stage, and if it is found false, appropriate legal action be initiated against complainant for misusing of POCSO Act.

(Chandra Shekhar Jha, J)

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