

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.791 of 2025

Arising Out of PS. Case No.-303 Year-2024 Thana- BATHNAHA District- Sitamarhi

Divyansh Jha S/O Arunesh Jha @ Randhir Jha Resident Of Village -
Madhopur, P.S- Bathanaha, District - Sitamarhi

... .. Petitioner

Versus

1. The State Of Bihar
2. Prashant Kumar Jha S/O Palat Jha Resident Of Village - Madhopur,
P.S- Bathanaha, District - Sitamarhi

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Vikash Kumar Jha, Advocate

For the Opposite Party/s : Mr.Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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

petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with Bathnaha

P.S. Case No. 303 of 2024 registered for the offences under

Sections 137(2), 96, 3(5) of the Bhartiya Nyay Sanhita,

2023 and section 8 of the POCSO Act.

3. The petitioner is named in the First Information

Report and is in custody since 03.08.2024.

4. Allegation against the petitioner is to kidnap the

minor daughter of the informant along with other co-accused

persons for sexual intercourse or seduced/forced her to enter

into marriage with another person.



5. It is submitted by learned counsel appearing on behalf of the petitioner that as per statement of victim recorded under section 164 of the Cr.P.C., it can be safely gathered that she was not sexually assaulted by this petitioner. It also transpires from her statement that she was taken to Nepal by co-accused Shuvash Jha and only being her friend and co-villager, the petitioner was implicated with present case. It is further submitted that as per FIR, it is not a case of penetrative sexual assault and, moreover, victim has refused to join medical examination.

6. It is further submitted that charge in this case was framed long back, but not even a single witness was examined, which *prima facie* completely defeated the legal provision as available under section 35(1) of the POCSO Act.

7. It is further submitted that trial of this case is not likely to be concluded within the prescribed time period as available under section 35(2) of the POCSO Act, for the reason that petitioner already remains in custody for about one year. It is submitted that on this score alone, petitioner deserves bail.



8. While concluding argument, it is submitted that petitioner found involved in two more criminal cases, where his name transpired only on the basis of confessional statement and suspicion arising therefrom is also one of the basis for implication of the petitioner with the present occurrence. It is submitted that petitioner is on bail in both aforesaid cases, and, moreover, investigation of this case is completed and as such, there is no chance of tampering with the evidence.

9. Learned A.P.P. for the State duly assisted by learned counsel for the informant, while opposing prayer for bail of the petitioner, submitted that as per statement of the victim, as recorded under section 164 Cr.P.C., petitioner actively participated in the alleged occurrence, but fairly conceded that allegation of sexual assault is not available against this petitioner.

10. In view of the aforesaid factual submission as mentioned above and by taking note of the fact as *prima facie* allegation of sexual assault is not available against this petitioner, rather same is available against co-accused



Shuvesh Kumar Jha, coupled with the fact that petitioner remains in custody since 03.08.2024, where not even a single witness including the victim was examined by the learned trial court *prima facie* defeating the provision of section 35(1) of the POCSO Act itself, suggesting that trial is not likely to conclude within the prescribed time period as available through section 35(2) of the POCSO Act, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned A.D.J. - VII, Sitamarhi/concerned court, in connection with Bathnaha P.S. Case No. 303 of 2024, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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