

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90098 of 2024

Arising Out of PS. Case No.-517 Year-2024 Thana- DIGHA District- Patna

Pankaj Kumar S/O Late Balmiki Singh R/O Kurji More (opposite of Chasma centre) , Police station - Digha , District - Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Seema Singh W/O Radhe Singh R/O Village- Marwan, P.S- Karja, Dist- Muzzafarpur, At present residing at Kurji gate no-80, rented house of Faudari, P.S- Digha, Dist- Patna

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Uma Shankar, Advocate Mr.Mahendra Pratap, APP
For the Opposite Party/s :	Mr.Ashok Kumar Singh, APP Mr.Vijay Anand, Advocate Mr.Roop Kishan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

7 31-07-2025 Heard Uma Shankar, learned counsel appearing on behalf of the petitioner and learned A.P.P. for the State duly assisted by Mr. Vijay Anand, learned counsel for the informant.

2. Petitioner seeks bail in connection with Digha P.S. Case No. 517 of 2024 (Special POCSO Case No. 211 of 2024) registered for the offences under Sections 74, 65 of the Bhartiya Nyay Sanhita, 2023 read with section 4, 6 of the Protection of Children from Sexual Offences Act (in short, the “POCSO Act”).



3. The petitioner is named in the First Information Report and is in custody since 07.08.2024.

4. Allegation against the petitioner is to enter into the room of the minor daughter of the informant along with other co-accused persons in drunken condition in her absence, whereafter the co-accused namely, Rahul Singh committed penetrative sexual assault/rape upon minor daughter of the informant. It transpires from FIR that mother of victim was in live-in-relationship with the co-accused Rahul Singh.

5. It is submitted by Mr. Uma Shankar, learned counsel appearing on behalf of the petitioner that allegation of penetrative sexual assault is specifically available against co-accused Rahul Singh, whereas allegation against this petitioner is only of criminal trespass in drunken condition.

6. It is submitted that as per statement of the victim recorded under section 183 of the B.N.S.S., this petitioner came at the house of the informant in early



morning of the alleged occurrence and also made an attempt to commit penetrative sexual assault/rape.

7. It is further submitted that petitioner is in custody since 07.08.2024 i.e. for about one year, despite of same, even victim could not examined by the learned trial court in view of section 35(1) of the POCSO Act, and, therefore, conclusion of trial within prescribed time period as defined under section 35(2) of the POCSO Act does not appear possible, and on this score alone, petitioner deserves bail.

8. Learned A.P.P. for the State duly assisted by Mr. Vijay Anand, learned counsel appearing for the informant, while opposing the prayer for bail of the petitioner, fairly conceded that allegation of non-penetrative sexual assault/rape is not available against this petitioner, referring the statement of victim as recorded under section 180 and 183 of the B.N.S.S.

9. In view of aforesaid factual submission as mentioned above and by taking note of the fact as



allegation of penetrative sexual assault is not available against this petitioner, who is in custody since 07.08.2024, where compliance of section 35(1) of the POCSO Act appears doubtful, and, moreover, trial of this case is also not likely to be concluded within prescribed time period as available under 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 Additional Sessions Judge-VI-cum-Special Judge, POCSO, Patna, in connection with Digha P.S. Case No. 517 of 2024 (Special POCSO Case No. 211 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."), and further condition that:

Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till



conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

10. Learned trial court is directed to remain careful *qua* compliance of section 35(1) & 35(2) of the POCSO Act.

(Chandra Shekhar Jha, J)

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