

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89732 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- TRIVENIGANJ District- Supaul

Md Maslam @ Maslam Md. Rajjak R/O Village - Nayabhargama, P.S-
Bhargama, District- Araria Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi munni khatoon W/O Md. Jalaudin R/O Village - Latauna Ward No .- 18
nagar parishad, P.S- Triveniganj, District-Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Adv. Mrs. Rupa Kumari, Adv.
For the Opposite Party/s	:	Mr. Majid Mohboob Khan, Adv. Mr. Satyendra Narayan Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 22-07-2025 Heard the parties.

2. The petitioner seeks bail in connection with

Triveniganj P.S. Case No. 09 of 2024 registered for the

offence under Sections 366A, 504/34 of the I.P.C. and

Section 8/17 of POCSO Act.

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

custody since 23.04.2024.

4. The allegation against the petitioner is to kidnap

minor daughter of the informant (age not mentioned) for the

purpose of illicit intercourse or to seduce or force her to enter

into the marriage with another person.



5. Learned counsel appearing on behalf of the petitioner submitted that petitioner and victim were known to each other and out of said acquaintance the victim developed affection towards petitioner and thereafter they went together for Delhi and solemnized marriage as per their personnel law and for that purpose *Nikah Nama* was executed. It is submitted that after lodging of FIR victim came to Supaul on her own, whereafter she was arrested by police on 23.02.2024. It is pointed out that her statement under Section 164 of Cr.P.C. was recorded on 27.02.2024 and by that time she was with her parent and therefore tutoring *qua* false implication cannot be ruled out in present case. It is submitted that as per statement of victim recorded under Section 164 of Cr.P.C./ 183 of BNSS, it transpires that she was brutally assaulted by petitioner at Delhi and due to assault her left arm was fractured but upon medical examination there was no sign of any physical violence. Medical examination also denied any fracture and sexual assault as alleged. It is submitted that the age of victim upon medical/ radiological examination was found between 15-17



years and if benefit of marginal error i.e., ± 2 years be given, in view of ***Rajak Mohammad Vs. State of Himachal Pradesh***, reported in ***(2018) 9 SCC 248***, victim appears major on the date of occurrence.

6. While concluding the argument, it is submitted that petitioner is in custody for about 1 year and 3 months and not even a single prosecution witness was examined till now out of 7 prosecution witnesses defeating the provisions of speedy trial as available under Section 35(2) of POCSO Act, itself.

7. Learned counsel for the informant while opposing the prayer of bail submitted that as per municipal birth certificate the age of victim on the date of occurrence was 15 years 7 months. It is submitted that the marriage as alleged was solemnized forcefully at Delhi but fairly conceded that statement was recorded after four days of recovery.

8. In view of aforesaid factual and legal submission and by taking note of fact as the medical report *prima-facie* not appears corroborating the allegation qua sexual/ physical assault as stated through statement recorded by victim under



Section 164 of Cr.P.C./ 183 of BNSS, coupled with fact that petitioner is under custody since 23.04.2024 i.e., more than 1 year appear *prima-facie* defeating the provisions of speedy trial as available under Section 35(2) of the POCSO Act, accordingly petitioner above-named, is directed to be released on bail in connection with Triveniganj P.S. Case No. 09 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 District and Addl. Sessions Judge-cum-Special Judge (POCSO Act)/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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