

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1293 of 2025

Arising Out of PS. Case No.-31 Year-2023 Thana- MAHILA PS District- Khagaria

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Kundan Yadav @ Kundan Kumar S/O Gopal Yadav Village- Somichak @
Shovichak P.S.-Tarapur, Dist.- Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bablu Yadav S/O Kailash Yadav R/O Vill.- Araria, P.S.- Madaiya, Parbatta,
Dist.- Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajib Ranjan Jha, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 28-04-2025 Heard learned counsel for the petitioner and learned APP
for the State. Perused the case diary.

2. The petitioner seeks bail in connection with Mahila
P.S. Case No. 31 of 2023 instituted for the offence under
Sections 366(A), 376 & 34 of the Indian Penal Code and
Sections 3/4 of the Dowry Prohibition Act and Section 6 of the
POCSO Act.

3. As per prosecution case, accusation against the
petitioner is that petitioner has taken away the minor daughter of
the informant for the purpose of marriage and has made physical
relation with her. Petitioner has solemnized marriage with the
victim.



4. It has been submitted on behalf of the petitioner that the petitioner is in custody since 20-01-2024. Petitioner bears no criminal antecedent/s, as per disclosure made in paragraph No. 3 of the bail application.

5. It has been further submitted by the petitioner's counsel that petitioner has been falsely implicated in the present case. Learned counsel for the petitioner submits that petitioner and the victim were in love affairs. As per the statement of the victim recorded under Section 164 of the Cr.P.C., she has deposed that she at her own volition went with the petitioner and solemnized marriage. As per medical report, there is no injury found on the body of the victim and she has refused for her internal medical examination.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP has confined his submission only to the extent that victim is minor and her consent is not admissible in the eye of law and the sexual intercourse committed by the petitioner will amount to rape in the present circumstances of the case. Police after completion of investigation has submitted charge sheet in this case under Sections 498(A), 376 & 34 of the IPC and Sections 4 & 6 of the POCSO Act.



7. Considering the aforesaid facts and circumstances of the case and taking into account the fact that victim is minor and her consent is not valid in the eye of law, this Court, at this stage is not inclined to grant bail to the petitioner. Prayer for grant of bail to the petitioner is, accordingly, *rejected*.

8. The Trial Court is directed to expedite the trial as expeditiously as possible without any undue delay and unnecessary adjournments.

9. However, petitioner will be at liberty to renew his prayer for bail if the trial is not concluded within a period of six months from today.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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