

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4489 of 2026

Arising Out of PS. Case No.-72 Year-2025 Thana- COMPLAINT CASE District- Kishanganj

Musarraff Alam @ Mister S/O Khair Mohammad @ Sannikhua Resident of
Village- Chichuwabari, P.S- Pothiya, Dist.- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. X S/O Mr. Y R/O Village- Taiyabpur Chichuwabari, P.S- Pothiya, Distt.- Kishanganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Adv.
For the Opposite Party/s	:	Mr. Navin Kr. Pandey, APP
For the Informant	:	Mr. Dineshwar Tiwary, Adv. Mrs. Lalita Kumari, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 17-02-2026 Heard the parties.

2. The petitioner is named in the complaint case and apprehending his arrest in connection with Complaint Case No. 72 of 2025 registered for the offences punishable under Sections 137(2), 96, 351(1)(3), 76, 351(4) of BNS.

3. The petitioner alleged to kidnap minor daughter of the informant aged about 16 years and thereafter committed rape/ penetrative sexual assault upon her.



4. It is submitted by learned counsel appearing on behalf of the petitioner that for the occurrence, initially the FIR was lodged by the complainant which was registered as Pothiya P.S. Case No. 331 of 2024, where after recovery statement of victim was recorded under Section 183 of BNSS where she categorically stated as she was tortured by her parent therefore out of her own sweet will she left her parental house for Nepal. It is submitted that she made same statement before the police during investigation while recording her statement under Section 180 of BNSS and considering all such aspect police submitted closure report *qua* petitioner saying mistake of fact.

5. Arguing further, it is pointed out by learned counsel for the petitioner that after passing 13 days of recording of statement under Section 183 of BNSS when victim joined her parents, under parental influence, the



father of the victim lodged a protest petition with the court of learned Jurisdictional Magistrate in aforesaid FIR, which was turned into complaint case, where the victim upon tutoring stated that this petitioner kidnapped her and was kept in hotel in Nepal, where she was continuously raped for 16 days. It is submitted that just to pressurize petitioner to solemnize marriage with victim, the present false protest petition was filed which not even appears supported by affidavit and, therefore, same also not appears legally convincing, in view of legal report of Hon'ble Supreme Court as available through ***Priyanka Srivastava Vs. State of Uttar Pradesh [2015 (6) SCC 287]***.

6. Learned APP duly assisted by learned counsel for the informant while opposing the prayer of bail submitted that during inquiry victim categorically stated that this petitioner committed rape upon her for long 16 days.

7. In view of aforesaid factual



submissions and by taking note of fact as police after investigation submitted closure report against petitioner, considering the statement of victim recorded under Section 183 of BNSS, where the present protest also appears filed after 13 days of recording the aforesaid statement and as such *prima-facie* parental tutoring cannot be overlooked, accordingly petitioner above-named, in the event of his arrest or surrender before the court below within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Spl. Judge (POCSO), Kishanganj /concerned Court, where the case is pending in connection with Complaint Case No. 72 of 2025, subject to the conditions as laid down under Section 482(2) of BNSS.



Sudha/-

(Chandra Shekhar Jha, J)

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