

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9903 of 2026

Arising Out of PS. Case No.-42 Year-2025 Thana- MAHILA PS District- East Champaran

Shubham Singh @ Ayush Gautam Son of Late Guddu Singh @ Rajeev
Ranjan Singh Resident of Village-Chintamanpur, PS-Pipra, District-
EastChamparan,Motihari

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kulhari Devi Wife of Heera Mukhiya Resident of Village- Semarkaul Ward
no. 14, Ps- Bagha, Dist- West Champaran , Bettiah

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Ms. Isha Mishra, Advocate
For the Opposite Party/s :	Mr.Gauri Shankar Gupta, APP
For the Informant :	Mr. Bakshi SRP Sinha, Senior Advocate Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 07-05-2026 Heard Ms. Isha Mishra, learned counsel appearing
on behalf of the petitioner and Mr. Gauri Shankar Gupta,
learned APP appearing on behalf of the State, as well as, Mr.
S.R.P. Sinha, learned senior counsel along with Mr. Arvind
Kumar, learned counsel appearing on behalf of the informant.

2. The petitioner apprehends his arrest in connection
with Mahila P.S.case no. 42 of 2025 registered under sections
65,3(5) of the B.N.S. of 2023 and sections 4 and 8 of POCSO
Act.

3. As per the allegation made in the FIR, the petitioner
allegedly took the informant's minor daughter to his house on
the pretext of educating and taking care of her, where she



remained residing since 05.07.2021. It is further alleged that when the informant went to bring her back, the petitioner and his family members refused and threatened the informant and her husband, thereafter the victim was produced before the Mahila Police Station, Bagaha.

4. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. The petitioner has antecedent of two cases, both were instituted at the behest of the informant side. Referring to the allegations made in the F.I.R., learned counsel submits that the informant herself alleges that on 04.07.2021 she, along with her minor daughter aged about 10 years, had gone to attend a feast at the house of an ex-*Mukhiya*, where the accused persons requested that the victim be sent with them for admission in a school and for performing minor household work, to which the informant voluntarily consented, and thereafter on 05.07.2021 the victim accompanied the accused persons. The alleged occurrence is of the year 2021, whereas the present F.I.R. has been instituted only on 28.04.2025, despite the allegation that the informant was not being allowed to meet the victim. Learned counsel submitted that prior to institution of the present F.I.R., the informant had already instituted Complaint Case No.



24 of 2025 on the same set of allegations, which was dismissed on 10.12.2025 for non-prosecution after the complainant failed to appear on several dates. Copies of the complaint petition and dismissal order have been annexed as Annexure-P/3 and Annexure-P/4 respectively. Learned counsel for the petitioner further submitted that the medical examination report of the victim does not *prima facie* support the allegation of rape or sexual assault, which, according to him is the result of influence, tutoring or false implication. He further submitted that on the alleged date and time of occurrence, the petitioner was pursuing the B.B.A. LL.B. course at Dehradun during the academic session 2018–2023 and, in support thereof, an attendance certificate has been brought on record by way of Annexure-P/5. On these grounds, the petitioner seeks to be released on pre-arrest bail.

5. *Per contra*, learned Senior Counsel Mr. Bakshi S.R.P. Sinha appearing on behalf of the informant vehemently opposed the prayer for anticipatory bail and submitted that the allegations made in the F.I.R. disclose that the petitioner had taken the minor victim with the assurance of providing education and thereafter subjected her to exploitation for a considerable period. The victim, in her statement recorded under



Section 183 of the B.N.S.S., has fully supported the prosecution case and specifically corroborated the allegations levelled in the F.I.R. Learned senior counsel further submitted that the delay in institution of the F.I.R. has adequately been explained. The crime continued for nearly four years. The petitioners had not allowed the informant to get her daughter back and when all the authorities failed to redress her grievance, the informant was left with no alternative than to lodge the FIR. The petitioner has criminal antecedent of two cases, details whereof have been disclosed in paragraph no. 3 of the bail petition, and considering the serious nature of allegations involving a minor girl, the petitioner do not deserve the privilege of anticipatory bail.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Having considered the rival submissions made on behalf of the parties, as well as, upon perusal of the materials available on record, it appears that the informant herself alleges that she had voluntarily permitted her daughter to accompany the accused persons for admission in school and for performing household work. It further appears that although the alleged occurrence is of the year 2021, the present F.I.R. has been instituted on 28.04.2025. The materials available on record



indicate that prior to institution of the present F.I.R., Complaint Case No. 24 of 2025, on the same set of allegations, was instituted by the informant, which appears to have been dismissed for non-prosecution.

8. The mandate of Article 39 (e) of the Constitution of India provides that the tender age of children is not abused and citizens are not forced by economic necessity to enter avocation unsuited to their age, and if children are to be given opportunities and facilities to develop in a healthy manner and childhood is to be protected against exploitation as visualised by Article 39(f) of the Constitution of India.

9. Considering the above mandate of the Constitution, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the 'Act, 1986') was enacted with an object to prohibit the employment of children below the age of 14 years and 15 years in certain specified employment.

10. Section 3 of the Act 1986 prohibits employment of children in any occupation and process.

11. Section 14 A of the Act, 1986 provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under Section 3 or Section 3-A shall be cognizable



offence.

12. Section 14-D of the Act, 1986 relates to compounding of the offence for the first time by the accused being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

13. In the present FIR, no case has been lodged against the petitioner under the provision of Sections 3 or 14 of the Act, 1986.

14. The Apex Court has consistently held that while the evidence of a child witness is not to be discarded merely on account of age, the Court must remain conscious to the possibility of such witness being swayed, influenced or tutored, particularly considering the susceptibility and innocence attached to tender age. The Court, therefore, is required to satisfy itself with regard to the competence, credibility and voluntariness of such testimony before placing reliance thereupon. Reference in this regard may be made to the judgment of the Apex Court in case of ***State of Rajasthan vs. Chatra***, reported in ***(2025) 8 SCC 613*** which is reproduced hereinafter:

“23. The principles that can be adduced from an overview of the aforesaid decisions, are:



23.1. *No hard and fast rule can be laid down qua testing the competency of a child witness to testify at trial.*

23.2. *Whether or not a given child witness will testify is a matter of the trial Judge being satisfied as to the ability and competence of the said witness. To determine the same the Judge is to look to the manner of the witness, intelligence, or lack thereof, as may be apparent; an understanding of the distinction between truth and falsehood, etc.*

23.3. *The non-administration of oath to a child witness will not render their testimony doubtful or unusable.*

23.4. *The trial Judge must be alive to the possibility of the child witness being swayed, influenced and tutored, for in their innocence, such matters are of ease for those who may wish to influence the outcome of the trial, in one direction or another.*

23.5. *Seeking corroboration, therefore, of the testimony of a child witness, is well-placed practical wisdom.*

23.6. *There is no bar to cross-examination of a child witness. If the said witness has withstood the cross-examination, the prosecution would be entirely within their rights to seek conviction even solely relying thereon.”* (emphasis supplied)

15. The victim, in her statements recorded under Sections 180 and 183 of the B.N.S.S., has supported the allegations alleged in the F.I.R. and has specifically alleged commission of wrong by the petitioner but the same is required to be ascertained in view of the settled principle of law that the testimony of a child witness is required to be appreciated with due caution and circumspection. The medical examination report of the victim does not *prima facie* support the allegation



of sexual assault, which has come in para-53 of the case diary. The petitioner has also brought on record attendance certificate showing that he was pursuing BBA LL.B. course at Dehradun during the relevant period.

16. In the facts and circumstances of the case and considering the materials brought on record, I find that a vague allegation has been alleged against the petitioner and his entire family members. I am of the opinion that the petitioner has, *prima facie*, made out a case to be released on bail.

17. The learned District Court is directed to release the petitioner on anticipatory bail, in the event of his/her arrest or surrender before the learned District Court within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned District Court where the case is pending in connection with Mahila P.S. Case no. 42 of 2025, subject to the condition as laid down under Section 482 of the BNSS//438(2) of the Cr.P.C.

18. The learned District Court is directed to verify the criminal antecedent of the petitioner, as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner, as what has been stated in



paragraph no. 3, this order will lose its force automatically.

19. Before parting with the order, by way of caution, I must observe that even after more than 75 years of indpendence, the parent/guardian seek to put their minor/adolescent children in employment. I find it gainful to reproduce the observation made by the Apex Court in paragraphs no. 34 and 34 of the ***M.C. Mehta vs. State of Tamil Nadu & Ors.*** reported in ***1996 (6) SCC 756***, which *inter alia* are as under:

"34. We part with the fond hope that the closing years of the twentieth century would see us keeping the promise made to our children by our constitution about a half-century ago. Let the child of twenty-first century find himself into that "heaven of freedom" of which our poet laureate Rabindranath Tagore has spoken in Gitanjali.
35. Let a copy of this judgment is to be sent to Chief Secretaries of all the State Governments and union Territories; so also to the Secretary, Ministry of Labour, Government of India for their information and doing the needful. "

20. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	13.05.2026
Transmission Date	13.05.2026

