

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16953 of 2026

Arising Out of PS. Case No.-174 Year-2025 Thana- GAUNAHA District- West Champaran

Dharmendra Baitha Son of Motichan Baitha R/o Village - Mauje Madhopur,
P.S. - Gaunaha, Dist. - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. X W/O/ Y R/O Village- Mauje Madhopur, P.S.- Gaunaha, District- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sarvesh Kashyap, Adv.

For the Opposite Party/s : Mr.Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 24-06-2026 Heard Mr. Sarvesh Kashyap, learned Advocate for

the petitioner and learned Additional Public Prosecutor for the

State.

2. At the outset, it is submitted that notice was duly
issued upon the O.P. No.2, which was duly received by the sister
of Opposite Party No. 2, who was residing with her and as such
it may be treated as valid service.

3. The petitioner apprehends his arrest in connection
with Gaunaha P.S. Case No. 174 of 2025, registered for the
offences punishable under Sections 137(2) & 96 of the B.N.S.
and later on Sections 8 & 12 of the POCSO Act were also
added.



3. The allegation against the petitioner is of enticing away the minor daughter of the informant by alluring her for the purposes of marriage and illegal act. Despite all the sincere efforts, whereabouts of the victim could not be found, whereupon this FIR came to be instituted.

4. Learned Advocate for the petitioner submits that the alleged occurrence took place on 05.12.2025 but the present FIR came to be instituted on 07.12.2025. During the course of investigation it transpired that on the next morning of the alleged occurrence both the boy and girl were recovered from a sugarcane field and the victim girl has not made any complaint against the petitioner. However, when the statement of the victim was recorded under Section 183 of B.N.S.S., she has categorically stated that she had spent the night in the sugarcane field voluntarily but not made any allegation of misconduct or unethical act on the part of the petitioner. On account of this said reason the mother of the victim had refused to keep the victim in her home and later on in order to settle the score against the petitioner and his family members, this FIR has been instituted on the next day, after recovery of the victim without disclosing the entire fact. It is further contended that once there is no allegation of any physical assault or misconduct upon the



victim girl there would not be any application of the penal provisions of the POCSO Act. The petitioner is also a man of fair antecedent, aged about 22 years and he undertakes that he will fully cooperate in the proceeding of the court.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submits that the victim was minor at the time of alleged occurrence and as such her consent has no meaning in the eyes of law. Above all the victim was found along with the petitioner and as such his complicity cannot be denied.

6. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the statement of the victim as has been discussed in the impugned order; coupled with the delay in lodging of the FIR and the fact that on the next day of occurrence the victim was recovered, but subsequently this FIR has been instituted without disclosing the entire fact, beside the fair antecedent of the petitioner, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of the Learned District and Additional Sessions Judge 7th cum Special Judge POCSO, West Champaran at Bettiah in connection with Gaunaha P.S. Case No. 174 of 2025, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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