

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2543 of 2025

Arising Out of PS. Case No.-84 Year-2024 Thana- BELA District- Sitamarhi

Abhishek Kumar @ Abhishek Mukhiya S/o Naresh Mukhiya Resident Of
Village- Khairwa, Ps- Bela, Dist- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Shyama Devi W/O Chandashwar Mukhiya R/O Village- Khairwa, Bhiswa,
ward no. 7, P.S. - Bela, Dist. - Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Arvind Kumar Jha, Advocate
For the State	:	Mr. Syed Ashfaque Ahmad, APP
For the Informant	:	Mr. Virendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 19-03-2026 Heard learned counsel for the appellant, learned
A.P.P. for the State and learned counsel for the
informant/Respondent No. 2.

2. This appeal has been filed against the order dated
15.04.2025 passed by learned Additional Sessions Judge 1st-
cum-Special Judge (Children's Court), Sitamarhi in Trial No. 07
of 2025 arising out of Bela P.S. Case No. 84 of 2024, registered
for the offence punishable under Sections 363 and 366A of the
Indian Penal Code and Section 8 of the P.O.C.S.O. Act, whereby
the prayer for bail of appellant has been rejected.

3. The prosecution case, in brief, is that on the alleged
date and time of occurrence, when the minor daughter of



informant had gone to market, in the meantime, she was abducted by all the F.I.R. named accused persons, including this petitioner, on the point of pistol and the accused persons, snatched cash and gold ornaments for her and committed rape upon her.

4. Learned counsel for the appellant submits that bail application of the appellant, who is juvenile in conflict with law, has been rejected by the Court below considering the merit, nature and gravity of the offence, which is not in consonance with Juvenile Justice (Care and Protection of Children) Act, 2015 (for short "J.J.Act") and from bare perusal of the impugned order it is apparent that the S.I.R. (Social Investigation Report) was not called for by the learned Trial Court. He next submits that appellant has been declared juvenile by the Juvenile Justice Board, Sitamarhi on 19.03.2025 and the Board has found his age as 16 years 1 month and 27 days (copy of order is annexed as Annexure-P/2 to this bail petition). Appellant has got no criminal antecedents and he is in custody since 10.07.2024.

5. On the other hand, learned A.P.P. for the State and learned counsel for the informant/Respondent No. 2 have vehemently opposed this appeal.



6. Heard learned counsel for the parties. In case of bail to a juvenile in conflict with law, the approach of the Court has to be different. While considering the bail application of juvenile in conflict with law, the Court has to consider following three grounds, mentioned in Section 12 of the J.J.Act:

“(i) Likelihood of association with known criminals,

(ii) Likelihood of moral, physical or psychological danger; and

(iii) Likelihood to defeat ends of justice, rather than searching into merits of case of nature and gravity of allegations.”

7. In this case, the aforesaid grounds were not considered nor any social investigation report was called for and the bail application of appellant was rejected on merit.

8. Accordingly, considering the aforesaid facts and circumstances as well as period of custody and clean antecedent, the impugned order dated 15.04.2025 passed by the learned Additional Sessions Judge 1st-cum-Special Judge (Children's Court), Sitamarhi in Bela P.S. Case No. 84 of 2024, Trial No. 07 of 2025 is hereby set aside and this appeal is allowed.

9. Let the appellant, as named above, be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of



learned District and Additional Sessions Judge VI-cum-Special Judge (POCSO Act), Sitamarhi in connection with Bela P.S. Case No. 84 of 2024, subject to condition that *one of the bailors will be father of the appellant and he would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child's (appellant) well-being and will not allow him to go in the company of bad elements.*

(Prabhat Kumar Singh, J)

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