IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51268 of 2026

CNR No. BRHC010703422026

Arising Out of PS. Case No.-39 Year-2026 Thana- BIRPUR District- Supaul

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Naushad Khan S/o Phool Mohammad @ Fulamohamad R/o Village - Lakshminiya, P.S - Lalitgram, District - Supaul

... ... Petitioner/s

Versus

1. The State of Bihar
2. XXX W/o YYY R/o Village - Sitapur Ward No. 13, P.S - Birpur, District - Supaul

... ... Opposite Party/s

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Appearance :
For the Petitioner : Mr. Arvind Kumar, Advocate
For the State : Mr. Kumar Ranjit Ranjan, APP
For the Informant : Mr. Sharda Nand Mishra, Advocate
Ms. Isha Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR

ORAL ORDER

4 18-11-2026 Heard the learned counsel for the petitioner, the learned APP appearing on behalf of the State and the learned counsel for the informant.

2. The petitioner seeks bail in connection with Birpur P.S. Case No.39 of 2026, giving rise to POCSO Case No.14/2026, for allegedly having committed offence under Sections 96, 140(1), 61(2) and 3(5) of B.N.S. as well as under Sections 8, 12 and 17 of the POCSO Act.

3. As per the prosecution story, which has been lodged on the basis of the written report submitted by the informant, to the effect that on the date of occurrence the petitioner along with

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other co-accused persons named in the first information report came at the house of the informant on a white colour Scorpio vehicle and forcefully kidnapped her minor daughter. When the informant raised *hulla*, all the accused persons took out pistol from their pocket and threatened the informant. It has been alleged that as per knowledge of the informant, the accused persons have fled along with her daughter to Jaipur and thereafter on the social pressure and the pressure put on by the villagers, she has been brought back from Jaipur on 13.01.2026. When the informant went to the house of the petitioner, she was told to put her signature on a non-judicial stamp paper, which they signed and even thereafter her daughter was not returned back. On 22.01.2026 when the informant along with some persons went to the house of the petitioner, they were threatened and thereafter the present case was lodged on 23.01.2026.

4. The learned counsel for the petitioner submits that the entire allegations levelled in the first information report are false and concocted. He submits that the alleged occurrence is said to have taken place on 24.10.2025, however, the present first information report has been lodged on 23.01.2026 and the delay of around three months has not been explained in the first information report. He next submits that the victim girl gave her

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statement under Section 183 of the BNSS wherein she did not support the case of the prosecution and stated that she on her own went with the petitioner and married him. At the time of giving her statement under Section 183 of the BNSS, she was carrying a three months old fetus. The learned counsel for the petitioner submits that during course of medical examination, the Medical Board assessed her age to be 18 to 20 years. He submits that the petitioner is in custody since 23.03.2026, without any criminal antecedent.

5. Per contra, the learned counsel appearing on behalf of the informant, while opposing the prayer for bail of the petitioner, submits that the petitioner along with other accused persons kidnapped the minor daughter of the informant and took her to Jaipur. She submits that the Medical Board opined that the rape cannot be ruled out. She submits that the petitioner with an intention to commit rape against the minor daughter of the informant kidnapped her and thereafter threatened the informant and her family members. She submits that admittedly the victim girl is a minor, therefore, her statement under Section 183 of the BNSS cannot be relied upon.

6. The learned APP for the State also opposes the prayer for bail of the petitioner and submits that direct allegation

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of kidnapping the minor girl of the informant has been alleged against the petitioner, therefore he does not deserve the privilege of bail.

7. Having considered the rival submissions and after going through the records as well as the case diary and the statement of the victim girl recorded under Section 183 of the BNSS, it would transpire that the victim girl, after her recovery, gave her statement under Section 183 of the BNSS before the learned Magistrate. From perusal thereof, it would transpire that she was married to one another boy on 13.03.2024, however, he used to assault her, which was informed by the victim girl to her parents. When no action was taken by her parents, then she on her own married the petitioner herein and at the time of giving her statement under Section 183 of the BNSS i.e. on 27.01.2026, she was carrying a fetus of three months. She stated before the learned Magistrate that she want to go with her husband and she did not wish to go with her parents. From the report of the Medical Board, which has been mentioned in paragraph no.65 of the case diary, it would transpire that the Medical Board assessed the age of the victim girl to be 18 to 20 years.

8. Considering the statement of the victim girl

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recorded under Section 183 of the BNSS and the medical report, let the petitioner, above named be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned District & Additional Sessions Judge-cum-Special Judge, POCSO Act, Supaul in connection with Birpur P.S. Case No.39 of 2026, giving rise to POCSO Case No.14/2026, with a condition that:

(i) The learned court concerned shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court concerned shall take steps for cancellation of his bail bond. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Ritesh Kumar, J.)

Sanjay/-

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