

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58244 of 2024

Arising Out of PS. Case No.-977 Year-2016 Thana- BIHTA District- Patna

Rakesh Kumar Giri @ Aryan Kumar S/O Late Lalan Giri R/O Village- Sri Rampur Tola, P.S- Bihta, Distt.- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Abhisarika Kumari @ Sakshi D/O Rajesh Kumar Singh R/O Village- Raja gaon, Kharauni, P.S- Bashdih, Distt.- Balia, State- Uttar Pradesh. At present C/O Sri Munna Pandey Residence of Village- Surya Mandir Road, Sri Rampur, P.O And P.S- Bihta, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Kant Kumar, Advocate
For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

2 23-03-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has approached this Court for quashing of order dated 01.04.2024 passed by Additional Sessions Judge-VIIth-cum-Special Judge, POCSO, Danapur, Patna in Special (POCSO) Case No. 238 of 2019 (arising out of Bihta P.S. Case No. 977 of 2016) registered under Sections 363 and 366A of the Indian Penal Code whereby the discharge of the petitioner from the offences of POCSO has been rejected.

3. As per the prosecution case, the informant alleged that on 26.12.2016 at about 08:45 AM, his daughter, namely, Abhisarika Kumari went to coaching but she did not return till



05:00 PM in his tenant house. Then he and his family members started searching his daughter, thereafter he came to know that his daughter has been kidnapped by this petitioner with intention to solemnize marriage.

4. Learned counsel for the petitioner has submitted that FIR has been filed under Sections 363 and 366A of the Indian Penal Code, subsequently the case was investigated and the charge-sheet was also filed under the said offences and the cognizance has also been taken against the petitioner under the same offence and the case has been transferred for Trial and the Sessions Trial has been transferred to the learned Additional Sessions Judge-7th for trial and disposal. Learned counsel for the petitioner further submits learned Additional Sessions Judge has got not power to transfer the record on suo moto. He further submits that without any evidence learned Sessions Judge transferred the record to POCSO Court. Learned counsel for the petitioner further submits that the age of the victim was assessed by the doctor is 17 to 18 years.

5. Learned counsel for the State has opposed this prayer.

6. From the perusal of records it appears that this petitioner has approached this Court in Cr.W.J.C. No. 1514 of



2019 vide order dated 24.04.2023, the Co-ordinate Bench of this Court has disposed of the writ application in following terms:-

“The case of the petitioner has been referred to the Special Judge for framing of charge under the POCSO Act also, apart from other sections of the Indian Penal Code. If the petitioner has any grievance with regard to the applicability of the POCSO Act, he can raise all the grounds before the Special Judge and can contend that no offence under the POCSO Act is made out against him.

With the aforesaid observation and direction, this application is disposed of.”

7. Pursuant to the order of Co-ordinate Bench of this Court, the petitioner approached before learned Special Judge POCSO, Patna by filing his appropriate application which is the impugned order. While considering the prayer of this petitioner, the Special Court observed that as per the school records the date of birth of the victim is 01.02.2003, while the occurrence took place on 26.12.2016, hence at the time of occurrence, the victim was 13 years 11 months and 25 days.

8. This Court finds that at this stage and so as to proceed further with regards to the offence under POCSO Act, there are sufficient grounds for proceeding.



9. Considering the age of the victim as per the school records, this application is devoid of merits and is accordingly rejected.

(Praveen Kumar, J)

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