

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59790 of 2025

Arising Out of PS. Case No.-118 Year-2025 Thana- JOGAPATTI District- West Champaran

Pradeep Kumar S/O Banhu Mahto @ Bandhu Mahato R/O Vill.- Jaitiya
Noniya Tola, P.S.- Chanpatiya, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. X (symbolic name of the father of the so called victim) S/O Late Magar Mahto R/O Vill.- Jaitiya Noniya Tola, P.S.- Chanpatiya, District- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Bimlesh Kumar Pandey, Adv
For the Opposite Party/s :	Mr. Anuj Kumar Shrivastava, APP
For the Informant :	Mr. Gyan Prakash, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 25-02-2026 Heard the parties.

2. The petitioner seeks bail in connection with Yogapatti P.S. Case No. 118 of 2025 registered for the offence under Sections 137(2), 87, 126(2), 115(2) and 3(5) of the BNS and Section 4 of the POCSO Act.

3. The petitioner is named in the F.I.R. and is in custody since 27.05.2025.

4. The allegation against the petitioner is to kidnap minor daughter of informant along with other co-accused persons aged about 16 years for the purpose of illicit intercourse/marriage with another person.

5. Learned counsel appearing on behalf of the petitioner



submitted that though victim alleged this petitioner to commit rape four times while she was in captivity of petitioner at Gorakhpur, but tutoring *qua* aforesaid statement cannot be ruled out in view of her statement as recorded under Section 180 of the BNSS and in this connection learned counsel drew attention of this Court towards para no. 13 of the case diary, where it appears that after recovery from Chanpatiya, victim was handed over to her parents and, thereafter, her statement under Section 183 of the BNSS was recorded. It is pointed out that upon medical examination no injury was noticed in and around private part of the victim, which also negates allegation *qua* rape/penetrative sexual assault. It is submitted that trial could not conclude within preferred timeline as provided under Section 35(2) of the POCSO Act, therefore, petitioner cannot be kept behind bars for indefinite period in want of trial, violating fundamental right of petitioner as available under Article 21 of Constitution of India.

6. Learned APP duly assisted by learned counsel for the informant while opposing the prayer of bail submitted that victim specifically alleged that this petitioner committed rape upon her while she was in captivity at Gorakhpur. It is submitted that she was raped by petitioner repeatedly for four times, which is apparent from her statement as recorded under Section 183 of the



BNSS. It is submitted that none finding of injury upon medical examination does not lead to conclusion *ipso-facto* that rape/penetrative sexual assault was not committed upon as rape is a legal finding not a medical one. It is submitted that charge in this matter was framed on 20.02.2026 and, therefore, within next couple of months it is likely to conclude.

7. Considering the aforesaid factual submission and by taking note of fact as allegation *qua* committing penetrative sexual assault/rape is specifically available against petitioner in terms of statement of victim as recorded under Section 183 of the BNSS, accordingly, the prayer for bail of the petitioner is rejected.

8. However, learned Trial Court is directed to conclude the trial, preferably, within a period of 06 months from the date of receipt of this order as preferred within timeline under Section 35(2) of the POCSO Act, failing which petitioner may renew his prayer of bail, if so advised.

(Chandra Shekhar Jha, J)

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