

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62009 of 2025

Arising Out of PS. Case No.-44 Year-2015 Thana- DHAKA District- East Champaran

Md. Shamim Akhter @ Shamim Akhter Son of Naimuddin Village-Sikandra
Pur Tola ,P.S-Phenhara ,District-East Champaran At P/A- Ramchandra Dhaka,
Ps- Dhaka, Dist- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. [REDACTED] Daughter of Late Rajeev Kumar Singh
Resident of Village- Rasul Pur, PS- Dumra Dist- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
CAV ORDER

6 13-03-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under Sections 313, 376(A), 376(D), 376(2), 372, 373 & 34 of the Indian Penal Code, under Sections 3, 4, 5, 6 & 8 of the Immoral traffic (Prevention) Act and under Section 6 of the POCSO Act.

3. The case of the prosecution in short is that the informant's late mother Khushboo Singh @ Reena Singh was having illicit relationship with the petitioner. The father of the informant was dumb by birth and he was being killed by the petitioner and informant's mother six years ago. The informant



is aged about 16 years. After this, the mother of the informant along with the informant and her brother Amandeep started living with the petitioner at Azad Chowk P.S.- Dhaka, District-East Champaran in a tenanted house. It is further alleged that after some time, the petitioner killed the mother and brother of the informant and took the informant to Mohalla Dagapara at Siliguri at his house. It is further alleged that the petitioner started raping her and when the informant objected, she was being slapped and was injected intoxicant drugs and in state of unconsciousness, she was being raped by the petitioner. It is further alleged that the petitioner used to call three other persons namely Raju Mian, Khalid and Chandan and she was compelled to have intercourse with them and it is further alleged that the petitioner used to inject her with intoxicant and after that all three named persons committed rape with her. It is further alleged that the petitioner has left her twice in hotel at Siliguri with somebody else and she was being raped in the hotel also.

4. Learned counsel for the petitioner has submitted that this case was registered on 24.02.2015 and the petitioner was arrested on 24.11.2016 at Nepal in a drug case in which the petitioner was convicted for eight years and was serving his sentence till 26.11.2024. Thereafter on 27.11.2024, the



petitioner was handed over to Indian Government and he is in custody in this case from 28.11.2024. It has further been submitted that during investigation co-accused Md. Eshrar @ Md. Ishrar has been granted bail by learned Co-ordinate Bench of this Court in Cr. Misc. No. 29349 of 2015 and later on co-accused Raju Mian and Md. Ishrar have been acquitted in Cr. App. (DB) Nos. 873 of 2017 and 689 of 2017 respectively by the learned Co-ordinate Bench of this Court vide Judgment dated 18.01.2023. It has further been submitted that the age of the victim was not determined by the Court of competent jurisdiction and as such Section 6 of the POCSO Act is not attracted. Learned counsel for the petitioner has further submitted that during course of investigation the medical examination of the victim was conducted and the Doctor conducting medical of the victim has not found any abnormality. Medical system opinion- normal appearing and has opined that no definite opinion regarding rape can be given.

5. During course of investigation the victim has given her statement under Section 164 of the Cr.P.C. and from perusal of the order of the learned trial court it transpires that in this case charges were framed on 21.04.2025.

6. Since charge has been framed in this case on



21.04.2025 and Section 35 of the POCSO Act provides that the trial of rape must be concluded within a year.

7. Considering the above facts and circumstances of the case, I am not inclined to grant bail to the petitioner at this stage, however, he may renew his prayer for bail after six months if the trial is not concluded and the learned trial court is directed to proceed in this case in a manner as provided under Section 35 of the POCSO Act.

(Ashok Kumar Pandey, J)

durgesh/-

AFR/NAFR	NAFR
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