

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75448 of 2025

Arising Out of PS. Case No.-97 Year-2023 Thana- MAHILA P.S. District- Lakhisarai

Pintu Kumar @ Sumit Kumar S/o Musahru Saw @ Musharu R/o Village- Piri Bazar, P.S.- Piri Bazar, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kanti Devi W/o Prabhu Saw R/o Village- Piri Bazar, P.S.- Piri Bazar, District- Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Adv. Mr. Deepak Kumar, Adv. Ms. Isha Mishra, Adv.
For the Opposite Party/s :		Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 16-01-2026 Heard the parties.

2. This is the second attempt made on behalf of the petitioner for grant of bail, as earlier his prayer for bail was turned down by this Court vide order dated 26.07.2024 passed in Cr. Misc. No.35102 of 2024, taking into consideration the statement of the victim recorded under Section 164 of the CrPC, wherein she has categorically stated that she was subjected to rape by the petitioner and he had also made some obscene video of the victim; on the basis of that the victim was subjected to blackmail. During the medical examination, the victim was also



found pregnant and there are cogent materials suggesting involvement of the petitioner.

3. Learned Advocate for the petitioner, at the outset, submitted that the prayer for bail of the petitioner was rejected on merit and, as such, she does not want to persuade the Court by making submission touching on the merit of the case. However, this fact cannot be ignored that Section 35 of the Protection of Children from Sexual Offences Act, 2012 mandates that the evidence of a child (victim) shall be recorded within a period of thirty days of taking cognizance of the offence and reason for delay, if any, shall be recorded by the Special Court. It is needless to observe that cognizance in the matter had been taken on 26.07.2024 and till date, the evidence of the victim has not been recorded. It is further contended that Section 35(2) of the POCSO Act also directs the Special Court to complete the trial as far as possible within a period of one year from the date of taking cognizance of the offence. The same has also not been done. The incarceration of the petitioner for more than two years clearly suggests that he is being punished because of the laches on the part of the prosecution, which has failed to complete the trial within the period prescribed. To support the aforesaid contention, the orders of



two of the co-ordinate Benches passed in Cr. Misc. Nos.28722 of 2025 and 30568 of 2025 have been placed on record. Referring to the afore-noted orders, it is further contended that in both these matters, the victim was subjected to alleged sexual assault, however, the Court taking note of the fact that the prosecution could not be able to examine the victim within the period prescribed and the trial has not been concluded, the prayer for bail of the applicants were allowed vide orders dated 07.10.2025 and 31.10.2025.

4. This Court has also called for the present status of the trial and it has been apprised to this Court that out of thirteen charge-sheet witnesses, till date only two prosecution witnesses have been examined, including the victim's maternal grandfather.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submitted that a very serious allegation has been levelled against the petitioner of committing rape upon a minor girl, besides she was subjected to blackmail by preparing a video.

6. Having considered the submissions advanced by the learned Advocate for the respective parties and taking note of the mandate of Section 35(1) and (2) of the POCSO Act,



which clearly directs the learned Trial Court to conclude trial, preferably within a period of one year from the date of order taking cognizance and the statement of the victim must be recorded within thirty days; however, more than a year and five months have been elapsed since the order taking cognizance having been passed, but till date the statement of the victim has not been recorded, besides the fact that the petitioner has been incarcerated since 11.11.2023 and has absolutely fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Lakhisarai in connection with Lakhisarai in POCSO Case No.20 of 2024, Mahila P.S. Case No.97 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further following conditions:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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