

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.1612 of 2026**

Arising Out of PS. Case No.-32 Year-2023 Thana- MAHILA P.S. District- Kishanganj

Ajay Kumar Mahto @ Ajay Mahto S/o- Lakhan Dev Mahto Village- Lamba  
Basti Chakla Ghat ward No 01 PS and Distt- Kishanganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. [REDACTED] R/v- Balubari Chakla Ghat Po-  
Chakla Ghat Ps Dist- Kishanganj

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Om Prakash Om, Advocate  
For the Opposite Party/s : Mr.Sanjay Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY**  
**ORAL ORDER**

4      07-05-2026                      Heard learned counsel for the petitioner and learned  
APP for the State.

2. The petitioner has prayed for bail in connection with Kishanganj Mahila P.S. Case No. 32 of 2023 registered for the offence punishable under Sections 376, 457, 506, 120(B) of the Indian Penal Code, Section 4 of POCSO Act and Sections 3(i)(r)(s), 3(2)(va) and 3(2)(v) of S.C./S.T. Act.

3. The case of the prosecution is that the petitioner has committed rape with the minor daughter of the informant while she was alone at her home.

4. It is submitted by learned counsel for the petitioner that petitioner is innocent and has committed no offence. He has been falsely implicated in the present case. Learned counsel for the



petitioner has submitted that during course of investigation, her age was assessed to be 19 to 21 years and that in medical examination, it was found that possibility of sexual assault is present. It has further been submitted that in such circumstances, there is no concrete evidence of rape. Petitioner is having no criminal antecedent and he is languishing in judicial custody since 01.08.2023.

5. Learned APP appearing for the state has opposed the prayer of regular bail and submitted that in this case, the victim is minor and from perusal of the medical examination report of the victim, it will transpire that the doctor has opined that there is possibility of sexual assault, hymen was found ruptured. It has further been submitted that during investigation, victim has given her statement under Sections 161 and 164 of the Cr.P.C. wherein she has fully supported the case of the prosecution. From perusal of the order of the learned trial Court, it transpires that during trial, the victim has also supported the case of the prosecution. It also transpires that altogether six prosecution witnesses have been examined in this case.

6. Learned APP for the State has also relied on a judgment of Hon'ble Apex Court in the case of **X Vs. State of Rajasthan & Anr** passed in **SLP(Criminal) No. 13378 of 2024** wherein in para- '14', Hon'ble Apex Court has held which



is being quoted hereunder:-

*14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.*

7. Having heard the learned counsel for the parties and considering the nature of allegation, this court is not inclined to enlarge the petitioner on bail at this stage and, as such, his prayer for bail stands rejected.

8. However, petitioner may renew his prayer for bail after six months if the trial is not concluded.

9. Learned trial Court is directed to conclude the trail in view of Section 35 of the POCSO Act.

**(Ashok Kumar Pandey, J)**

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