

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5043 of 2025**

Arising Out of PS. Case No.-49 Year-2025 Thana- SHIVAJINAGAR District- Samastipur

XXX (Real name withheld)

... .. Appellant/s

Versus

1. The State of Bihar
2. Ms. X (real name withheld)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rabindra Kumar Priyadarshi, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the Resp. No. 2	:	None

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT**

Date : 07-05-2026

Learned counsel for the appellant and learned APP for the State are present. However, nobody is present on behalf of Respondent No. 2 (victim/informant), despite valid service of notice.

2. The present appeal has been preferred by the appellant against the impugned order dated 15.11.2025, passed by learned District and Additional Sessions Judge-Ist-cum-Special Judge, (Children Court), Samastipur, in connection with Shivajinagar P.S. Case No. 49 of 2025 dated 18.08.2025, registered for the offence punishable under Sections 137(2), 96, 70(1), 351(2) and 3(5) of B.N.S., 2023, Section 4/6 of POCSO Act and Section 3(1)(wi), 3(1)(w)(i), 3(2)(v) and 3(2)(va) of



SC/ST (POA) Act, 1989.

3. Shivajinagar P.S. Case No. 49 of 2025 was registered on the written report of the victim alleging commission of gang rape upon her by the appellant and five other co-accused.

4. After investigation, charge-sheet was submitted against the appellant and other co-accused. However, after preliminary assessment of the appellant under Section 15 of the Juvenile Justice Act, his case was referred to learned Children Court where trial of the appellant is going on as an adult.

5. During trial, altogether two witnesses have been examined, including the informant/victim herself. In her examination during trial, the victim/informant has gone hostile by not supporting the prosecution case against the appellant or any other co-accused. She has clearly deposed that she does not identify the accused-appellant, who was present in the Court room as accused. She has been declared hostile, but despite cross-examination by the APP, nothing incriminating was obtained by him.

6. I heard learned counsel for the appellant and learned APP for the State.

7. Learned counsel for the appellant submits that the



appellant is innocent and has falsely been implicated on account of enmity. He also refers to the evidence of the informant/victim as has come during the trial. In her examination, the informant/victim has not supported the prosecution case at all and she has been declared hostile. She has neither supported the occurrence as alleged, nor has she identified the appellant and other co-accused standing in the dock. Hence, in such situation, there is no question of deprivation of liberty of the appellant in a case where there is no evidence against him at all.

8. However, learned APP for the State vehemently opposes the prayer of the appellant for bail submitting that the alleged offence is serious in nature, because as per the prosecution case, the appellant and other co-accused have committed gang rape upon the informant/victim. However, he admits that during trial, the informant/victim has not supported the prosecution case against the appellant or any other co-accused.

9. I considered the submissions advanced by both the parties and perused the material on record.

10. I clearly find that the informant/victim, who is a star witness of the prosecution, has gone hostile by not supporting the prosecution case against the appellant or any



other co-accused, because she has neither supported the occurrence as alleged, nor has she identified the appellant present in the dock. Hence, for want of evidence during trial against the appellant, there is no reason to deprive the appellant of his liberty.

11. Accordingly, the present appeal is allowed directing the appellant to be released on bail subject to furnishing the bail bond of Rs.10,000/- and undertaking by his father by way of affidavit that he would keep vigil on the appellant regarding his habits and he would not allow the appellant to come in contact with any criminal persons and take care of other developmental needs of the appellant and the appellant would attend the Court as and when required or directed.

(Jitendra Kumar, J)

shoaib/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.05.2026.
Transmission Date	08.05.2026.

