IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47474 of 2026
Arising Out of PS. Case No.-38 Year-2023 Thana- SAKRA District- Muzaffarpur

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Rahul Kumar @ Rahul Kumar Sharma Son of Fakira Sharma Resident Of village- Chand Sarai, Ps- Mahua, Dist- Vaishali At Hajipur

... ... Petitioner/s

Versus

1. The State of Bihar
2. XXX son of Late Ramchandra Rai Resident of Village- Kutubpur, Ps- Sakra (Bariyarpur), Dist- Muzaffarpur

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Baidyanath Thakur, Adv.
Mr. Sachin Kumar, Adv.
Mr. Kaushik Deo, Adv.
For the Opposite Party/s : Md. Mushtaque Alam, APP
For the Informant : Mr. Manjeet Kr. Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJ KUMAR

ORAL ORDER

4 21-08-2026 Heard the learned counsel for the petitioner and the learned counsel for the informant as also the learned Additional Public Prosecutor for the State.

2. The petitioner is seeking regular bail in connection with Sakra (Bariyarpur O.P) P.S. Case No. 38 of 2023, registered for the offences punishable under Sections 363 and 365/34 of the Indian Penal Code and Sections 4 of the POCSO Act.

3. As per the prosecution case, on 12.01.2023 at about 08:00 A.M., the informant's minor daughter aged about 17 years, went to *Bariyarpur* for coaching and did not return home till 11:00 A.M. On search, the informant

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alleged that the co-accused persons namely, *Ram Babu Pandit and Raman Kumar*, who used to remain in contact with the girl, had allegedly kidnapped her in connivance with each other.

4. The learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case. He has further submitted that after three months, the victim was allegedly recovered and her statement was recorded under Section 164 of the CrPC, in which, she took the name of the petitioner. He has also submitted that the petitioner was not named in the FIR and his name surfaced for the first time in the statement recorded under Section 164 of the CrPC, wherein she stated that the petitioner had forcibly taken her away. However, she stayed in Bangalore for almost three months and thereafter returned and subsequently, the petitioner was made an accused in the present case. He has next submitted that there has been an inordinate delay of 13 days in lodging the FIR without any explanation. It appears from the records that the petitioner and the victim were, in fact, in a consensual relationship. The age of the victim, as mentioned

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in her statement under Section 164 of the CrPC, was 17 years, whereas now she is 20 years. He has further submitted that as per the medical report, no evidence of rape was found and neither any bleeding nor any external or internal injury was found on the person of the victim, and thus, he submits that it appears to be a case of consent. He has also submitted that the petitioner has clean antecedent and has been in judicial custody since 05.01.2026.

5. The learned counsel for the informant has opposed the application and stated that in her statement recorded under Section 164 of the CrPC, the victim has alleged that she was taken away by the petitioner.

6. On the other hand, the learned APP for the State has opposed the application, stating therein that in her statement recorded under Section 164 of the CrPC, the victim has named the petitioner, but at the same time, he has also submitted that as per the medical report, no sign of rape has been found and neither any injury has been found.

7. Taking into consideration the fact that the petitioner and the victim had stayed together at Bangalore for a period of three months and as per the medical report,

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there is no evidence of rape, prima facie, it appears to be a case of consent.

8. Taking into account the entire facts and circumstances of the case, coupled with the fact that the petitioner is a person of clean antecedent and also taking into consideration the fact that she has attained the age of discretion, the petitioner above-named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Exclusive Special POCSO Court-III/concerned Court, Muzaffarpur in connection with Sakra (Bariyarpur O.P. P.S. Case No. 38 of 2023, subject to the following conditions:-

(i) The petitioner shall cooperate in the disposal of trial.

(ii) One of the bailors must be close relatives of the petitioner such as mother, father, brother, sister or wife.

(iii) The petitioner will appear on each and every date fixed by the trial court and if, he fails to do so on two consecutive dates, unless he is prevented by extremely adverse circumstances, the learned court below will be at

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liberty to cancel the bail bond of the petitioner.

(iv) Before release, the learned court below shall verify the criminal antecedent of the petitioner and if he is found involved in any case other than the present one, his bail bond will not be accepted.

(v) It is also made clear that there shall not be any delay in verifying the criminal antecedent of the petitioner.

(Raj Kumar, J)

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