

10-03-2026

In the court of Special Judge, POCSO Act, Jamshedpur.

Kailash @ Kailash Mishra
…..... Petitioner.
Vs.

State of Jharkhand ….....Opp. Party.

For Petitioner :-Sri Awadhesh Kumar Mishra,
Ld.Advocate.
For State :- Smt. Babita Kumari, Ld. Spl. P.P.

ORDER

The record has been fixed for passing order on the petition dated 22.01.2026, (vide MCA No. 162 of 2026), u/s 250 of BNS has been filed on behalf of accused Kailash @ Kailash Mishra and its rejoinder has already been filed on behalf of informant on dated 07.02.2026.

Both sides have already been heard on the last date.

The learned counsel for the accused-petitioner submitted that the petitioner has been falsely implicated in this case without any cogent evidence and he has running a hotel on lease basis, having no criminal antecedent. I.O. has submitted chargesheet, as per FIR there is no allegation of committing rape and sexual harassment against the petitioner as such no case u/s 65(1),61(2),75(2) BNS and u/s 4(2)/8 of POCSO Act is made out, the petitioner usually left the hotel on 17.10.2025 at 10:00 pm and returned hotel in next day 10:00 am as such he was not present in hotel at the time of occurrence and there is no evidence to establish that the petitioner was in any manner involved in the commission of occurrence, which is completely baseless and concocted. It is further submitted that there is not a single iota of evidence against the petitioner to connect the petitioner with the alleged offence and no case under alleged offences are made out against the petitioner at any manner. The petitioner has running a hotel on lease basis and has no criminal antecedent and both the prosecutrix also corroborated in their statement recorded u/s 183 of BNSS and the informant is mother of the victim, that on 22.11.2025, the informant has compromised with Kailash Mishra without any fear and pressure from any corner. It is also submitted that this case has been filed by the informant on 17.10.2025 before the officer-in-charge Sakchi P.S. later on she came to learned that in this case Kailash Mishra has also been made accused, but neither, nor her victim daughter have made the accused to the Kailash Mishra and informant has submit compromised petition, she has no grievance with the accused-petitioner Kailash Mishra and lastly prayed that the petitioner may kindly be discharged from this case.

The Learned Spl. P.P. for the State by filing rejoinder dated 07.02.2026, has vehemently opposed the contention made on behalf of the Learned Counsel for the petitioner-accused and further submitted that the present discharge petition filed by the accused is misconceived baseless and filed with the sole intention to delay the trial of a serious offence under the POCSO Act, and at the stage of discharge the court is

only required to see prima facie involvement, not appreciation of evidence, which is a matter of trial. The I.O. has collected sufficient material including the statement recorded under relevant provision of law, forming a strong suspicion against the accused. It is also submitted that after perusal of entire record it is crystal clear that in paras-3, 4, 5, 6 and 7 of the case diary the prosecution witnesses highly supported the case of prosecution and merely the accused person and the alleged compromise is legally inconsequential as offence under the POCSO Act are non-compoundable and any compromise has no legal sanctity and lastly prayed to reject the petition filed by the defence and pass order in the ends of justice.

From perusal of record, it transpires that the petitioner is named in the FIR under Sakchi P.S. Case No. 169 of 2025, u/s 65(1), 61(2), 75(2), 351(2) BNS and u/s 4(2)/8 POCSO Act. This case has been instituted on the basis of typed report given by informant who is mother of the minor daughter aged about 12 years (hereinafter referred as to prosecutrix). The prosecution case in short is that on 16.10.2025 at about 17:30 hours, Prosecutrix-I had gone out of her house without informing anyone and on search it also came in the notice that the minor daughter-prosecutrix-II aged about 12 years of neighbour of the informant is also found missing from her house and both prosecutrix of each other then family members of both the victim girls have made search then on 17.10.2025 at about 16.00 hrs, informant received a phone call from her relative that both victim girls are moving towards Sakchi from Hawrah Bridge, then informant went there and found both were scared and on query prosecutrix-I disclosed that she along with her friend Prosecutrix-II, had gone to Sakchi V2 Mall, where co-accused Shreyansh and Karan were known to her from earlier, had come there from two separate motorcycles who took both of them to Kailash @ Doremon Hotel, situated at Sana Complex, Ambagan, Sakchi, from where both were taken to room no. 504 of the Hotel and thereafter, Golu, staff of the Kailash Hotel came there along with bottles of wine, beer, cold drink, Kurkure and Chicken and thereafter Shreyansh and Golu forcibly made both victim girls drunk and thereafter co-accused Shreyansh taken her to room No. 506 where he established physical relation with her and in the morning prosecutrix-II also disclosed that Shreyansh had also made physical relation with her and Karan was also making bad touch. It is also alleged that Shreyansh had disclosed that their video have been made and they would get it viral if she made hulla and thereafter, Kailash @ Doremon who is owner of Hotel when asked them to go away as police would arrive and thereafter, both victim girls came out of the Hotel and were wandering here and there in the Sakchi, out of fear. Hence, this case.

Further, from perusal of the record, it transpires that after completion of investigation, charge-sheet has been submitted against the accused-petitioner and other three co-accused persons u/s 65(1), 61(2), 75(2), 351(2) BNS and u/s 4/8 POCSO Act and vide order dated 15.12.2025 cognizance of offence U/s 65(1), 62, 61(2), 75(2), 351(2) BNS and u/s 4(2), 6, 17 POCSO Act has been taken against the accused-petitioner and other three co-accused persons. From perusal of the case diary the statement of the witnesses vide paras-3 and 7 have supported the case of prosecution. Both the prosecutrix in their statement u/s 180 of

BNSS, vide paras 5 & 6 (page-7 & 8), have also stated about the case of the prosecution and admitted that accused persons Shreyansh and Golu forcibly made drunken to both victim girls and thereafter Shreyansh taken her to room No. 506 where he established physical relation with her and in the morning prosecutrix-II also disclosed that Shreyansh had also made physical relation with her and Karan was also making bad touch and the accused-petitioner asked them to go away as police would arrive. They also corroborated in their statement recorded u/s 183 of the BNSS wherein they have also stated the same thing. The allegation against the accused-petitioner is that he being owner of Kailash @ Doremon Hotel, has facilitated the accused persons for committing aggravated penetrative sexual assault upon both the prosecutrix by the co-accused persons and the petitioner has compromised the case with the informant, in view of the offences alleged to be committed by the accused-petitioner and other co-accused persons and the alleged offences are serious in nature.

Considering the F.I.R, Charge-sheet and the material collected by the investigating officer during investigation in the case diary including the medical report of the victim, I find and hold that there are sufficient materials available in the case diary to frame charge against the above named accused/petitioner namely Kailash Mishra for committing the offences U/s 65(1), 62, 61(2), 75(2), 351(2) BNS and u/s 4(2), 6/17 POCSO Act and accordingly the petition for discharge, filed on behalf of the above named accused/ petitioner dated 22.01.2026 vide MCA No. 162 of 2026, having no merit, is hereby rejected. Accordingly, the M.C.A. No. 162 of 2026 stands disposed of.

Put up on 10.03.2026 for framing charge.

(Dictated)

(B.K. Sahay)

Special Judge, POCSO Act, Jamshedpur.

Case Adjourn for: CHARGE

Judge