

IN THE HIGH COURT OF JHARKHAND AT RANCHI**B.A. No. 923 of 2026**

Nayeem Ansari @ Md. Nayeem Ansari @ Sonu aged about 27 years
S/O Samim Ansari, Resident of Village- Koldiha, P.O. and P.S. Giridih
(T), District- Giridih

... Petitioner

Versus

State of Jharkhand

... Opp. Party

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Pandey A.N. Roy, Sr. Advocate
For the Opp. Party : Mr. Tarun Kumar, APP

04/Dated: 25th March, 2026

1. The instant application has been filed under Sections 483 and 484 of BNSS, 2023 for grant of bail in connection with Giridih (M) P.S. Case No. 279 of 2025 registered under Sections 64(2)(m) of BNS, 2023 and Section 4/6 of the POCSO Act pending in the court of learned S.D.J.M. Giridih.
2. It has been contended on behalf of the petitioner that merely on the basis of the false allegation, the petitioner has been indulged in this present case.
3. It has been submitted by the learned counsel appearing for the petitioner that it is a case where the FIR although was instituted under Section 64(2)(m) of BNS *pari materia* to Section 376(2)(n) of IPC and Section 4/6 of the POCSO Act, but the charge sheet has been submitted under Section 64(2)(m) of BNS.
4. The Investigating Agency, after conclusion of the investigation, has found that no ingredient of either Section 4 or 6 of the POCSO Act has been there, since, the age of the victim, based upon the certificate obtained from the school where the victim was studying, has been found to be more than 18 years. Therefore, now the only offence, said to be committed as per the accusation, is under Section 64(2)(m) of BNS.

5. It has been submitted that if the entire prosecution version will be accepted to be true, then also no ingredient of Section 64(2)(m) of BNS is made out, reason being that as per the allegation, the victim was the consenting party in establishing the physical relationship with the present petitioner on the pretext of solemnization of marriage.
6. It has further been submitted that accepting the version of the victim to be true that she has been exploited, but that exploitation can only be said to be for one instance and in such situation, there cannot be any repeated physical relationship without the consent of the victim, therefore, no ingredient of Section 64(2)(m) of BNS is there.
7. Learned counsel for the appellant has further submitted that the petitioner is languishing in judicial custody since 20.09.2025 and as such, he may be enlarged on bail.
8. Learned Additional Public Prosecutor appearing for the opposite party-State although has vehemently opposed the prayer for grant of bail.
9. It has been submitted that the victim has been subjected to repeated rape, and as such, the charge sheet has been submitted under Section 64(2)(m) of BNS. However, he has admitted that no charge sheet was submitted either under Section 4 or 6 of the POCSO Act, as the victim has been found more than the age of 18 years, and therefore no cognizance has been taken under sections 4 and 6 of the POCSO Act.
10. This Court has heard the learned counsel for the parties, opened the sealed cover which is available on record and perused the First Information Report along with the impugned order.
11. Thereafter, the accusation which has been made in the First Information report and consideration of the rejection of bail of the

present petitioner, as has been recorded in the order passed by the learned Trial Court, has been perused by this Court.

12. The fact that charge sheet either under Section 4 or 6 of the POCSO Act has not been submitted is not disputed and the cognizance has only been taken under Section Section 64(2)(m) of BNS.
13. The word 'Rape' has been defined under Section 63 of BNS *pari materia* to Section 375 of the Indian Penal Code.
14. It is evident from the definition of the word 'Rape' that forceful physical relationship if established by anyone, then the same amounts to rape.
15. This Court, in order to consider the element of availability of rape, as per the accusation made in the present case, has perused the FIR wherefrom it is evident that the victim has made allegation against the present petitioner that prior to one year, i.e., from 16.09.2025 she, on the ground of promise of marriage, was subjected to physical relationship by the petitioner.
16. It is also admitted in the First Information Report that thereafter time and again physical relationship was established by the petitioner.
17. This Court, therefore, is of the view that if the establishing physical relationship said to be forceful, then the victim ought to have made a complaint against the petitioner immediately after the first occurrence, but there is no reference to that effect, rather, it is an admitted case that she, on the pretext of solemnization of marriage, has been subject to physical relationship.
18. This Court, considering the fact that the victim appears to be the consenting party in establishing the physical relationship and the petitioner is languishing in judicial custody since 20.09.2025, is of the view that present application deserves to be allowed.

19. Accordingly, the instant bail application stands allowed.
20. In consequence thereof, the petitioner named above, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the S.D.J.M. Giridih in connection with Giridih (M) P.S. Case No. 279 of 2025 with the condition that the petitioner shall co-operate in the trial and shall not absent himself on the date fixed without any cogent cause. In failure, the learned trial court is at liberty to take appropriate steps in accordance with law so that the trial be not hindered.
21. Further, subject to the condition that the petitioner will not, in any way, intimidate or influence the girl or try to tamper the evidence and if the petitioner shall be found in doing so, then the Investigating Officer will be at liberty to make application for cancellation of bail.
22. Let the copy of the FIR and impugned order be kept in sealed cover and made part of the record.

(Sujit Narayan Prasad, J.)

25th March, 2026
Samarth