

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44401 of 2024**

Arising Out of PS. Case No.-406 Year-2023 Thana- BHAGWAN BAZAR District- Saran

Ankit Kumar, aged about 26 years, male, SON OF LAXMAN RAM,  
Resident of VILLAGE- BIDESI TOLA, PS- THAWA, DIST- GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                                                        |
|--------------------------|---|------------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Bindhyachal Singh, Sr. Advocate<br>Mr. Sunil Kumar Singh, Advocate |
| For the Opposite Party/s | : | Mr. Bharat Bhushan, APP                                                |
| For the informant        | : | Mr. Narendra Kumar, Advocate                                           |

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL ORDER**

2      24-07-2024                      Heard Mr. Sunil Kumar Singh, learned counsel  
appearing on behalf of the petitioner and Mr. Bharat Bhushan,  
learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Bhagwan Bazar P.S. Case No. 406 of 2023 registered for the offence(s) punishable under Sections 376, 354(C) and 506 of the Indian Penal Code; Section 6 of POCSO Act and Sections 66(A), 67, 67(A), 67(B) of I.T. Act.

3. As per the allegation made in the FIR, the father of the victim had alleged that petitioner on the pretext of marriage has committed rape with his minor daughter and has also made her objectionable photographs viral on social media.

4. Mr. Bindhyachal Singh, learned senior counsel



along with Mr. Sunil Kumar Singh, learned counsel appearing on behalf of the petitioner submitted that the victim in her statement recorded under Section 164 Cr.P.C. has admitted the fact that she was in relationship with the petitioner for nearly two years and question of committing rape does not arise. Learned senior counsel also submitted that the Medical Board has found the age of the victim as 22 years and also no injury was found on any vital part of her body. He further submitted that so far as allegation made under Sections 66(A), 67, 67(A), 67(B) of I.T. Act is concerned, the petitioner has specific remedy under the said Act.

5. Mr. Narendra Kumar, learned counsel, has tendered his appearance on behalf of the informant and submitted that the petitioner had committed rape on the pretext of marriage and had also made objectionable photographs viral on social media. He further submitted that even considering the fact that the victim was in love relationship with the petitioner, the case under Sections 66(A), 67, 67(A), 67(B) of I.T. Act is made out against the petitioner.

6. Learned APP for the State has supported the arguments of the informant.

7. Having considered the rival submissions made on



behalf of the parties, as well as, the fact that the petitioner was in relationship with the victim, which has been admitted by the victim, while her statement was recorded under Section 164 of Cr.P.C. and the Medical Board has assessed the age of the victim as 22 years and the victim undisputedly having found to be major and she has also admitted that at no point of time she has ever objected or has complained that petitioner has committed rape and as such, at no stretch of imagination, such relationship developed between the petitioner and the informant can hold the petitioner guilty of having committed rape with her. In this regard, learned counsel has referred the law laid down by the Apex Court in case of **Naim Ahmed Vs. State (NCT of Delhi)**, 2023 SCC Online SC 89, wherein the Apex Court after considering several judgments and provision of Section 75 in detail has finally concluded in paragraph no. 21 that undisputedly the prosecutrix had contained to have relationship with the accused of the said case for five years till she gave complaint in the year 2015. In the present case, the victim has admitted that she was in relationship with the petitioner for nearly two years till FIR was lodged. I am of the opinion that petitioner has prima facie made out a case to be released on pre-arrest bail in connection with Bhagwan Bazar P.S. Case No. 406



of 2023 pending in the Court of learned Additional Sessions Judge-VI-cum-Exclusive Special Judge-POCSO Act, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. on such terms and conditions as the District Court deems it fit and proper.

8. At this stage, learned counsel appearing on behalf of the informant, referring to the order dated 24.04.2024 informs that notice for issuance of process under Section 83 of Cr.P.C. has been issued.

9. Mr. Singh has clarified that since only notice has been issued and no process has been executed under Section 83 of Cr.P.C. till date and therefore anticipatory bail is maintainable.

10. Considering the aforesaid submission and technical point raised by learned counsel appearing on behalf of the informant, I find it proper that the District Court should first consider to make himself aware of the latest steps taken by the trial court and then consider to accept the bail bond of the petitioner on such terms and conditions as it deems fit and proper.

11. In case, custody of the petitioner is only required for technical reason, the District Court in that case must



consider to pass the order on the same day, if the petitioner seeks for regular bail, considering the observation and law laid down by the Apex Court in the case of **Naim Ahmed (Supra)**.

12. The present petition stands disposed of.

**(Purnendu Singh, J)**

Sanjay/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

