

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64122 of 2024**

Arising Out of PS. Case No.-134 Year-2024 Thana- GOVINDPUR District- Nawada

AKHILESH KUMAR SON OF SURENDRA PRASAD R/O VILL.-
SAMARHIGARH, P.S.- ROH, DIST.- NAWADA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suman Kumar, Adv.
For the Opposite Party/s : Mr. Md. Matloob Rab, APP-34
For the Informant : Mr. Rabi Bhushan Pd. Adv.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 11-09-2024 Heard the parties.

2. The petitioner seeks bail in connection with
Govindpur P.S. Case No. 134 of 2024 registered for the
offence under Sections 376 of the I.P.C.

3. The petitioner is named in the F.I.R. and is
in custody since 10.06.2024.

4. The allegation against the petitioner is to
commit rape upon the informant/victim on false pretext
of marriage.

5. Learned counsel appearing on behalf of the
petitioner submitted that apparently from the perusal of



the FIR it can be gathered safely that the alleged rape was committed when marriage for any of the reason could not negotiated by the parents of the victim with petitioner. It is submitted that the victim is aged about 20 years old and was major on the date of occurrence. It is submitted that the alleged relationship was consensual and it cannot be termed as rape. Where in support of his submission learned counsel relied upon legal report of Hon'ble Supreme Court as available through ***Ansaar Mohammad vs. State of Rajasthan and Anr.*** as reported in ***2022 SCC OnLine SC 886***, where it is categorically held that entering into any kind of corporeal relationship with a person on the pretext of getting marriage cannot be termed as rape. It is also pointed out that nothing can be gathered from face of FIR that from very inception, the petitioner was under intention to cheat the victim and moreover the FIR no where suggest that any offer of marriage was made to petitioner by victim herself. While concluding the



argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP duly assisted by learned counsel for the informant, Mr. Rabi Bhushan Pd. while opposing the prayer of bail submitted that the victim belongs from rural area and therefore she was not acquainted with formalities of law and in fact this is a case of rape. It is submitted that threat was also advanced to make video viral which was captured in context of alleged physical relationship with victim. It is submitted that capturing of video of private moment and threat to make it viral clearly suggest that petitioner was not under intention to solemnize marriage with victim from very inception and in support of his submission Id. counsel relied upon the legal report as available through **Anurag Soni vs. State of Chattisgarh** as reported in **2019(13) SCC 1.**



7. In view of aforesaid facts and submission as and by taking note of fact as FIR itself suggests that physical relation was established with petitioner by victim out of her consent, where present implication was raised only when for any of the social reason marriage could not negotiated with petitioner, accordingly petitioner above named, who is in custody since 10.06.2024, is directed to be released on bail in connection with Govindpur P.S. Case No. 134 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Nawada/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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