

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2075 of 2025

Arising Out of PS. Case No.-24 Year-2024 Thana- DAGARUA District- Purnia

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Ajit Kumar Kushwaha @ Ajit Kumar Mahto @ Ajit Kumar S/o Sri Nagina Prasad R/o Vill- Bhataha Laxmipur/Bhataha, Ward No.13, P.S. - Sugauli, District - East Champaran at Motihari

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX D/o Sri Krityanand Rai R/o Vill.- Belwari, Ward No.-10, P.S.- Dagarua, Distt.- Purnea

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Advocate
For the Opposite Party/s : Mrs. Usha Kumari I, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 09-05-2025 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

2. The petitioner is apprehending arrest in connection with Dagarua P.S. Case No. 24 of 2024, registered on 14.01.2024, for the offences punishable under Sections 376, 420, 120B/ 34 of the Indian Penal Code, under Sections 3, 4 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(s), 3(1)(r), 3(1)(w) and 3(2)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. As per the prosecution, the FIR has been lodged against the petitioner alleging that he raped the victim on the



pretext of marriage and subsequently refused to marry her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He further submits that, in fact, the petitioner is the victim in this case and has been subjected to threats by the informant and her family. Counsel also submits that there are two crucial aspects which deserve serious consideration. First, the age of the victim, she is a major, and second, that she has accepted everywhere that the marriage was solemnized in a temple. Counsel further submits that once it is admitted that the marriage has been solemnized, the allegation of rape does not subsist, nor can the provisions of the POCSO Act be invoked. It is also submitted that the fact of marriage has been deliberately suppressed in the FIR.

5. Learned counsel for the informant, on the other hand, submits that whatever the material has come but, there is a direct allegation of rape against the petitioner, and therefore, anticipatory bail may not be granted to him.

6. Learned APP for the State opposes the prayer for bail but fairly submits that the fact of marriage has been accepted.

7. In the present facts and circumstances, this Court is of the opinion that while it may be a fit case for consideration of



regular bail, it is not a case for grant of anticipatory bail. As such, this Court is not inclined to grant anticipatory bail to the petitioner, and accordingly, the bail application stands **rejected**.

8. The petitioner is directed to surrender before the Trial Court within a period of six weeks from today. If the petitioner surrenders within the said period, the Trial Court is directed to pass order on his surrender-cum-bail application on the same day, without being prejudiced by the fact that the petitioner's anticipatory bail application has been rejected by this Court. The Trial Court shall consider the factual matrix of the case, the materials referred to in the observations made by this Court, and the case diary, and shall pass an appropriate order on the merits of the case.

(Dr. Anshuman, J.)

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