

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2138 of 2025

Arising Out of PS. Case No.-565 Year-2024 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

Prakash Kumar Son of Pawan Kumar @ Pappu Sah Village -Dharampur PS-
Sadar Distt-Muzaffarpur AT P/A- madhubani, Kharauna Dih, Ps- Sadar, Dist-
Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. xxxxx Wife of Chandu Sah village- Rahamganj, Ward no. 34, Ps-
Laheriasarai, Dist- Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Shashank Shekhar, Adv.
For the Opposite Party/s	:	Mr. Pramod Kumar Pandey, APP
For the informant	:	Mr. Vivek Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 06-03-2025 Heard Mr. N.K. Agrawal, learned Senior Counsel for
the petitioner, the State as also Mr. Vivek Kumar Sinha
appearing on behalf of the informant.

2. The petitioner is in custody in connection with
Sessions Trial No. 757 of 2024 arising out of Sadar P.S. Case
No. 565 of 2024 for the offence punishable under sections
126(2), 127(2), 64, 352, 351(2), 318(4), 3(5) of the Bharatiya
Nyaya Sanhita lodged on 31.08.2024 by the informant, Payal
Devi.

3. The informant (a married lady who is also blessed
with a female child) who claims to be working as a supervisor at
Sri Ganga Hospital, Sitamarhi alleged that the petitioner along



with Amit Kumar and Akash Kumar @ Golu who were also working there on the pretext of pending payment called her and established physical relationship. Next day, when she along with the petitioner and Akash were going to Patna on a motorcycle, the police nabbed and brought them back to the Police Station where she was threatened by her father-in-law, Pappu Sah and Amit Kumar.

4. The informant alleged that on 23.07.2024, she along with Prakash Kumar tied nuptial knots but on 28.08.2024, her first husband came and wanted her to return home. There altercation took place between the petitioner and the first husband. The petitioner and Akash Kumar wanted her to go to her first husband and upon refusal, was beaten and this resulted into the FIR.

5. Learned Senior Counsel submits that it was a consented physical relationship which under no circumstance will come under the purview of the rape. Further, the girl is major, married and blessed with eight years old female child, the petitioner has no criminal antecedent and is in custody since 26.11.2024.

6. The informant-lady has appeared and a short affidavit has been filed narrating that a Matrimonial Divorce



Case 669 of 2024 has been preferred before the learned Principal Judge, Muzaffarpur against the first husband.

7. Besides the said affidavit, it has been submitted by learned counsel for the informant that they have settled the matter, a case of mutual divorce has been filed with the first husband and the lady being out of home of the first husband, is now residing in the house of the present petitioner itself. The family has accepted her and an undertaking has been given that after the learned Principal Judge, Muzaffarpur passes an order on the divorce case, they shall live together as husband and wife.

8. The averment has been made in the presence of learned Senior Counsel/learned counsel on record for the petitioner and they do not deny the aforesaid facts.

9. Considering the submissions put forward by the parties as also his period of custody, a new narrative has been put forward by the parties, he do not have criminal antecedent, is in custody since 26.11.2024, in that background, this Court is inclined to extend him the privilege of bail with conditions.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned



Exclusive Special Judge Rape & POCSO-03, Muzaffarpur in connection with Sessions Trial No. 757 of 2024 arising out of Sadar P.S. Case No. 565 of 2024 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Vijay Singh/-

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