

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5953 of 2025

Arising Out of PS. Case No.-167 Year-2024 Thana- RAXAUL District- East Champaran

Sohail Khan @ Imteyaaj Ansari @ Imteyaz Ansari @ Sauhail Khan Son of
Salawdin Ansari @ Salaudin Ansari Resident of Village - Nauka Tola, Ward
No. 5, P.S. - Raxaul, District - East Champaran

... .. Petitioner

Versus

1. The State of Bihar
2. Kavita Devi, wife of Pramod Mahto, resident of village – Triloki Nagar
Koiriya Tola, Ward no. 25, P.S.- Raxaul, District – East Champaran.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Madhurendra Kumar, Advocate

For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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

2. The accused-petitioner, named in the F.I.R., is apprehending his arrest in connection with Raxaul P.S. Case No. 167 of 2024 registered for the offences punishable under Sections 366(A), 120(B), 376DA, 504, 506, 34 of the Indian Penal Code and 4, 6 of POCSO Act.

3. The allegation against the petitioner is to kidnap the minor daughter of the informant along with other named co-accused persons.

4. Learned counsel appearing on behalf of the petitioner submitted that allegation of kidnapping is not



available against this petitioner, rather he helped the informant as to trace out the location of victim. It is submitted that allegation of sexual assault is also not available as per F.I.R. While concluding argument, learned counsel submitted that upon medical examination of victim, no such injuries were found in and around the private part which may suggest *prima-facie* that penetrative sexual assault/rape was committed upon her after alleged kidnapping.

5. Learned A.P.P. for the State, while opposing the prayer for anticipatory bail of the petitioner, submitted that after administering intoxicant, victim was kidnapped by this petitioner along with other co-accused persons. It is submitted that allegation of sexual assault is available against this petitioner as per statement of the victim recorded under section 164 of the Cr.P.C. It is submitted by learned A.P.P. that rape/penetrative sexual assault is a legal finding and not a medical finding and, therefore, none finding of injury in and around the private parts of the victim does not lead to a conclusion *ipso-facto* that rape/penetrative sexual assault was not committed upon.



6. In view of the aforesaid facts and circumstances of the case and by taking note of the fact as the victim, who is the daughter of the informant, categorically supported the allegation of sexual assault against this petitioner while recording her statement under section 164 of the Cr.P.C., this court is not inclined to enlarge the petitioner on anticipatory bail.

7. Accordingly, prayer of anticipatory bail of the petitioner stands rejected.

(Chandra Shekhar Jha, J)

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