

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31427 of 2024

Arising Out of PS. Case No.-1067 Year-2021 Thana- KATIHAR COMPLAINT CASE
District- Katihar

Md. Aftab @ Aftab Alam S/o Abdul Sattar R/o vill - Dhusmar, P.S. - Muffasil,
Distt. - Katihar

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Sehnaz Khatoon W/o Late Md. Ekbal R/o Dhusmar, P.S.- Muffasil, District -
Katihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep, Adv.
For the State	:	Mr. Harendra Prasad, APP
For O.P. No. 2	:	Mr. Akhauri Kamal Kishore Sahay, Adv.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

13 08-07-2025 The parties to the proceedings are present in the Court
along with their respective counsels.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Section 376 of the Indian Penal Code.

3. Allegation made in the complaint is that the petitioner, who happens to be the brother-in-law of the complainant, had sexually exploited the complainant on pretext of marriage and, however, did not marry her.

4. Learned counsel for the petitioner submits that it would be clear from the statement of the complainant on solemn affirmation that the petitioner is the brother-in-law of



the complainant and she has made a categorical statement that she was in a love relationship with the petitioner and they established physical relationship voluntarily by their own consent. She has even admitted that she has filed this case since the petitioner did not marry her while also making a clear statement that no force was ever used with her. On the basis of only such statement made before the Court during her statement, it would be evident that no case of either Sections 376 or 313 of the IPC would be made out in the facts of the case. It is also strange that with allegations of rape and causing abortion, the opposite party no. 2 chose to file a complaint instead of a police case. It has also been submitted that the complainant is basically interested in a part of the property and the petitioner is totally agreeabl on the point that the share which falls in the part of her husband would go in her name and to support such argument, a Panchnama has been produced although the same has not been signed yet but showing the agreement that the petitioner has no objection in the fact that the petitioner has complete right over the share to which she is entitled in accordance with law.

5. Learned counsel for the opposite party no. 2, in presence of the parties, however, submits that there are



allegations of rape on the petitioner and hence, he does not deserve the privilege of anticipatory bail.

6. Taking into consideration the rival contentions made on behalf of the parties and especially considering the fact that since the petitioner happens to be the own brother-in-law of the complainant and upon his specific assertion that he would extend full cooperation in getting the property falling in the share of the opposite party no. 2 transferred in her name, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with C.A. Case No. 1067 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C./482(2) of the B.N.S.S., and subject to the further condition that the petitioner shall cooperate in the investigation/trial.

7. It is, however, made clear that the opposite party no. 2 has all her rights in place with regard to her property which falls in her husband's share and the petitioner would never cause any impediment to the inheritance of the share to which



the opposite party no. 2 is legally entitled and it goes without saying that the opposite party no. 2 would also cooperate in getting the issues resolved between the parties.

(Soni Shrivastava, J)

devendra/-

U		T	
---	--	---	--

