

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32444 of 2025

Arising Out of PS. Case No.-403 Year-2024 Thana- BIHARIGANJ District- Madhepura

Niraj Kumar Mukhiya @ Niraj kumar S/O Gajjo Mukhiya @ Baijnath
Mukhiya Village- Hari Col, PS- Bhawanipur, Dist.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Singh, Adv.

For the State : Ms. Dr. Indihar Kumari, APP.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

2 20-05-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in a case registered for the offences punishable under Sections 137(1) and 87 of the Bharatiya Nyaya Sanhita, 2023.

3. The allegation in the FIR is that the minor daughter of the informant aged 16 years was kidnapped by the petitioner and three other co-accused persons.

4. Learned counsel for the petitioner submits that as a matter of fact, the petitioner and the victim girl had a love affair and the victim had left her house with her own will and not under the pressure of the petitioner. It is further submitted that the present FIR has been lodged after a delay of four days inasmuch as the occurrence is said to have taken place on 04.12.2024, whereas the FIR came to be lodged on 08.12.2024. It is further



submitted that after recovery, the victim girl was medically examined and the medical examination report, which is annexed as Annexure-P/3 series, shows that the age of the girl is between 18-20 years which has been assessed by the Medical Board and no signs of any recent intercourse has been found. It is further submitted that the statement of the victim girl has been recorded under Section 183 of the BNSS wherein she has stated that she was taken away by co-accused Suraj Kumar Mukhiya and Parwati Devi by entering her house and threatening her parents. It has further been stated that in the statement of the victim that the said Parwati Devi had sent his brother, who is petitioner in the present case, along with the victim on a bus to Haldikola where she was kept for a day and thereafter, she went to various places along with the petitioner. However, it has not been stated that at any point of time, the victim has showed any resistance or raised any *halla* to get herself freed from the captivity of the petitioner. The further allegation in the statement of the victim is with regard to assault by the petitioner and an attempt to commit some wrong. It is, however, noticed that if the victim was in forceful captivity of the petitioner, the allegation would have been of sexual assault and not that of only some attempts. The medical report also does not show any sexual exploitation of the victim girl. It is next submitted that co-accused,



namely, Parwati Devi and Ranjit Mukhiya have been granted the privilege of anticipatory bail vide order dated 19.05.2025 in Cr. Misc. No. 32756 of 2025 and this petitioner has been languishing in custody since 16.12.2024.

5. Learned APP for the State, however, opposes the grant of bail to the petitioner on the ground that the victim was kidnapped by the petitioner and other co-accused persons.

6. Considering the period of custody and the fact that there is undue delay in lodging of the FIR and also that the victim girl is a major as per the medical report and further that the statement of the victim girl under Section 383 of the BNSS did not disclose any sexual assault upon the victim rather coupled with the submission advanced on behalf of the petitioner that the petitioner and the victim were in love affair, the above named petitioner is directed to be enlarged on bail 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 Bihariganj P.S. Case No. 403 of 2024.

(Soni Shrivastava, J)

divyanshi/-

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

