

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32050 of 2025

Arising Out of PS. Case No.-639 Year-2024 Thana- RAMPUR District- Gaya

Shivam Kumar S/o Abhay Singh Resident of Village- Ashok Nagar, Quarter
No. 3A, Police Station- Rampur, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Suruchi Kumari D/o Arun Kumar Singh Village Bhandy P S Wajirganj Dist
Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Nawal Kishore, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 15-11-2025 Heard learned Counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. This application, for grant of anticipatory bail,
arises out of Rampur Police Station Case No. 639 of 2024,
disclosing offences under Sections 126(2), 115(2), 351(2),
64(1), 61(2) and 3(5) of B.N.S., 2023.

3. The prosecution case, as per the First
Information Report, the informant was started living in the
house of father of the petitioner on rent since April, 2022.
During her stay as a tenant, she developed family
relationship with landlord and his wife. It has further been



alleged that petitioner who is landlord's son and is software engineer, during lockdown period, he was doing his work from home. At that time, love affair developed between them. The family members of the petitioner as well as that of the informant came to know about their love relationship. In September, 2023, the father of the informant had paralytic attack and they were ready to perform marriage of the petitioner with the informant and were allowing the petitioner and the informant to meet without any objection. The parents of the petitioner gave assurance to the informant that at appropriate time, the marriage would be solemnised. The petitioner started establishing physical relationship with the informant. In the meanwhile, she became pregnant and parents of the petitioner came to know about this fact, they persuaded the informant to abort the child and provided her the Pills for the same. It has further been alleged that subsequently, the petitioner started staying elsewhere and the petitioner and his family members refused to perform marriage with informant.

4. Mr. Nilendu Kumar Choudhary, learned Counsel appearing for the petitioner submits that petitioner



has falsely been implicated in this case on the basis of false and fabricated allegation. The informant started living in the house of the petitioner since April, 2022. They develop love relationship. The physical relationship establish between the petitioner and the informant was consensual in nature inasmuch as in the entire FIR, there is no allegation that the petitioner made a false promise to perform marriage with the informant. The informant has said that parents of the petitioner were ready to solemnise marriage of their son i.e. petitioner with the informant as they had come to know about their love relationship. The consensual relationship continued for fairly a long period of time i.e. for about two years and due to some family reasons, the family members refused to perform marriage of the petitioner with the informant. The allegation that the Pills were provided for aborting the child in the FIR, is different from the allegation which was made by the informant in the legal notice as well as in her statement recorded under Section 183 BNSS. In statement under Section 183 BNSS, she has stated that she asked the petitioner to bring medicine for abortion but in the FIR, she has stated that Pills were provided by the family



members/ parents of the petitioner.

5. Relying upon the judgment of Hon'ble Supreme Court reported in *(2025) 5 SCC 764 and 2024 SCC online SC 3471*, learned counsel submits that in para 22 of the judgment of *Mahesh Damu Khare Vs. State of Maharashtra 2024 SCC online SC 3471 (supra)* Hon'ble SC has dealt with the identical issue and has observed that a woman may have reasons to have physical relationship other than the promise of marriage made by the man, such as personal liking for the male partner without insisting upon formal marital ties. Thus, in a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said physical relationship was purely because of the false promise. He further argued that from perusal of the FIR, no offence under Section 64 is made out, however, at best, offence under Section 69 can be said to be applicable in the facts of the present case. In the FIR, there is no allegation that petitioner in order to establish a physical relationship implied deceitful means with the informant.

6. Despite service of notice, no one appears for



O.P. No.2. Learned counsel for the State opposed the prayer for bail and submits that there is allegation of establishing physical relationship with informant against the petitioner.

7. I have heard learned counsel for the parties and have perused the material on record.

8. From perusal of the FIR, prima facie, it appears that there was love relationship between petitioner and informant which started around April, 2022. Relationship fairly continued for long time till March 2024 when according to the informant, the petitioner and his family member refused to perform marriage. In the FIR, there is no specific allegation against the petitioner that from the very beginning, his intention was not to marry the informant and made a promise of marriage by deceitful means and on that basis, he established physical relationship. If due to some subsequent development, if relationship between the petitioner and the informant was not working and he refused to perform marriage that cannot be said to be an offence under Section 64 of the BNSS, accordingly, I am inclined to grant the petitioner privilege of anticipatory bail.

9. This application is, accordingly, allowed.



10. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya, in connection with Rampur Police Station Case No. 639 of 2024, subject to the condition laid down under Section 482 (2) of the Bharatiya Nagarik Suraksha Sanhita.

(Anil Kumar Sinha, J)

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