

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36842 of 2025

Arising Out of PS. Case No.-140 Year-2024 Thana- KURSAKANTA District- Araria

Md. Arbaj @ Arbaj @ Arbaj Alam son of Rakimuddin Resident of village -
Maratipur, Ward no. 05, Ps- Kursaleanta, Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Rana, Advocate
For the State	:	Mr. Ajay Kumar Jha, A.P.P.
For the Opposite Party/s	:	Mr. Kritya Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 20-08-2025 Heard learned counsel for the petitioner, learned
counsel for the informant as well as learned Additional Public
Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Kursakanta P.S. Case No. 140 of 2024 for the offence
registered under sections 126(2), 115(2), 64, 352, 351(2) and
3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. As per prosecution case, on 28.11.2024 at about
1:30 A.M., while the informant was sleeping with the victim and
two children in the west house and her husband had gone out,
the victim stepped outside to attend nature's call. At that time,
the petitioner allegedly overpowered her, gagged her with a
cloth and took her near a pond where he committed rape. The



informant, on noticing this under torch light, saw the petitioner committing the act while her daughter was crying. On raising alarm, the informant's brother-in-law (*devar*) and mother-in-law arrived and apprehended the petitioner, but other co-accused rescued him at gunpoint with *lathis*.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedents and has committed no offence. It is submitted that the petitioner and other family members, who had gone to the spot, have also been implicated, though during investigation, they were exonerated and charge-sheet has been filed only against this petitioner. It is further submitted that the victim girl, aged about 18 years, was a consenting party. At 01:30 A.M., she had gone outside on the pretext of attending nature's call, where the petitioner met her, but no alarm or *hulla* was raised by her. Learned counsel further submits that in her statement under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the victim stated that she has solemnized marriage with the petitioner. The Medical Report prepared by the Doctor assessed her age to be 18-19 years old and has not found any sign of rape. It has been further submitted that the prosecution story has been fabricated to pressurize the petitioner for marriage.



5. Today, when the matter was taken up *suo-motu*, the victim appeared through counsel and stated that her marriage has already been solemnized with the petitioner and out of the wedlock, one child has been born. She further stated that she has no objection, if bail is granted to the petitioner.

6. Taking into consideration the fact that marriage has already taken place and victim herself has no objection to grant of bail, let the above named petitioner in the event of his arrest/surrender before the court below within a period of four weeks from today, be enlarged 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 J.M.-1st Class, Araria in connection with Kursakanta P.S. Case No. 140 of 2024, subject to condition as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

(Ajit Kumar, J)

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