

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38006 of 2025

Arising Out of PS. Case No.-49 Year-2025 Thana- KISHANGANJ District- Kishanganj

Harsh Kumar, Son of Shashi Sah, Resident of Village- Khagra Machmara, PS
and Dist- Kishanganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. "X", informant, Son of Raj Kumar Paswan, Resident of Village- Khagra, PS
and Dist- Kishanganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Adv.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-10-2025 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The petitioner apprehends his arrest in connection
with Kishanganj P.S. Case No. 49 of 2025, registered for the
offences punishable under Sections 123, 127(3), 64, 115(2),
351(2), 352, 3(5) of the Bharatiya Nyaya Sanhita, 2023 and
Section 4 of the POCSO Act and Section 3(1)(r)(s), 3(1)(w)(i)
(ii) and 3(2)(va) of the SC/ST Act.

3. Allegedly the niece of the informant who has been
residing with the informant from her childhood, went to a fair
but did not return. After few days in the evening the informant



found her crying at Halim Chowk and she disclosed that the petitioner had enticed away and thereafter he has committed illicit act with her and established physical relationship on the pretext of marriage, but later on denied for the same, leading to institution of the FIR.

4. Learned Advocate appearing on behalf of the petitioner referring to the FIR submitted that the victim was allegedly taken away by the petitioner on 25.01.2025 and returned on 29.01.2025, but, till date, no FIR has been instituted and subsequent to the return, the FIR came to be instituted on 30.01.2025. The statement of the victim was recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, wherein she has categorically stated that she was in good relationship with the petitioner for the last five years and they have also established physical relationship and initially the petitioner had assured for marriage, but, later on, he refused to solemnize the marriage. The victim was also subjected to medical examination, wherein her age has been assessed between 17 to 19 years. The petitioner is also a young boy aged about 21 years having fair antecedent and he undertakes that he will cooperate in the investigation and the proceeding of the Court.

5. On the other hand, learned Advocate for the State



and the informant vehemently opposed the pre-arrest bail application and submits that there is a specific allegation against the petitioner that on the pretext of solemnization of marriage he has established physical relationship with the victim and later on refused to solemnize the marriage. On the date of occurrence, the victim was minor and, as such, the petitioner does not deserve anticipatory bail.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the FIR, coupled with the medical report which suggest the age of the victim 17 to 19 years and there is no sign of any illicit act, besides the materials and the statement of the victim that the relationship was consensual in nature, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge (POCSO), Kishanganj in connection with Kishanganj P.S. Case No. 49 of 2025, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023 with the further condition that one of



the bailors shall be the own/close family members of the
petitioner.

(Harish Kumar, J)

supratim/-

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