

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51325 of 2024

Arising Out of PS. Case No.-30 Year-2024 Thana- ANDHRAMATH District- Madhubani

RAJESH KUMAR SAH @ MITHILESH KUMAR SON OF SATYA
NARAYAN SAH VILLAGE- KUSHMAHI, P.S.- ANDHRAMATH, DISTT.-
MADHUBANI

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. X SON OF LATE NASIB LAL SAHU RESIDENT OF VILLAGE -
SAKHUA, P.S. - LAKUAHI, DISTRICT - MADHUBANI

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Shailendra Kumar Jha, Advocate
For the State	:	Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 05-02-2025 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Sections 341, 323, 376, 504 and 506 of the Indian Penal Code and Sections 4, 8 and 12 of the POCSO Act.

3. The prosecution case, in brief, is that this petitioner, who is distant relative of the complainant's elder daughter, often visits the complainant's elder daughter's house situated at Village- Narendrapur under Andhramath Police Station. The younger daughter of complainant, who is a minor, has been visiting her elder sister's village several times and often met this petitioner. It is alleged that taking advantage of the minor age of



the victim, this petitioner raped her about an year ago in the village and when the victim protested, he forcibly closed her mouth and after rape, threatened her not to disclose the incident. It is further alleged that on the false promise of marriage, this petitioner made physical relations with the victim several times and thereafter refused to marry her.

4. It is submitted by learned counsel for the petitioner that petitioner is innocent and has committed no offence and has falsely been implicated in this case with oblique motive. From bare perusal of the complaint petition it is apparent that both parties are distant relatives and came in contact with each other and developed relationship, which continued for two years. At the time the relationship developed, both parties were major and enjoyed each others company for a long period. Both the parties were well aware of the consequences of such relationship. As a matter of fact, it was a consensual relationship and as such, the same cannot be said to be induced or involuntary. It is not the result of any misconception and as such the same would not amount to rape. It is further submitted that in the medical report also the age of the victim is 20 years and no signs of sexual assaults were found and as such, no offence under Section 376 of the Indian Penal Code and Sections 4 and 8 of the POCSO



Act are made out. Petitioner claims clean antecedents.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail.

6. Considering the aforesaid facts and circumstances, nature of accusation and clean antecedents of the petitioner, the prayer for grant of anticipatory bail to the petitioner is allowed.

7. Accordingly, in the event of arrest/surrender within a period of eight weeks from today, let the above named petitioner 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 Additional Sessions Judge VII-cum-Special Judge (POCSO Court), Madhubani in connection with Andhramath P.S. Case No. 30 of 2024, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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