

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53222 of 2024

Arising Out of PS. Case No.-347 Year-2023 Thana- KASBA District- Purnia

Nurul Haque @ Md. Nurul Haque Son of Late Asgar Ali R/O Vill.- Southa,
Ward no. 04, Panchayat-Southa, P.s.- Kasba, Dist.- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Gulsan Ara Wife of Md. Husain R/O Vill.- Southa Ward no. 04, P.s.- Kasba,
Dist.- Purnea.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Bijendra Kumar Singh, Advocate Ms. Neha Praveen, Advocate Ms. Disksha Kumari, Advocate
For the Opposite Party/s	:	Mr. Shailendra Kumar, APP
For the Informant	:	Md. Tauqueer Azhar, Advocate Md. Reyaj, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 05-05-2025 1. Heard Mr. N.K. Agrawal, learned Senior counsel
for the petitioner, learned APP for the State and learned counsel
for the Informant.

2. The petitioner apprehends his arrest in connection
with Kasba P.S. Case no.347 of 2023 registered under sections
376, 504, 506 and 34 of the Indian Penal Code and Section 4 of
the POCSO Act.

3. As per the prosecution case, the informant states
that on 08.10.2023 at about 11:30 p.m. in the night when she
was sleeping with her minor daughter, three named accused
persons forcibly entered her house and accused Saifuddin
pressed the mouth of the informant and the other two accused



persons being Nurul Haque (petitioner) and Meghu Rishi took away her daughter at a distance of 200 meter from the house near a pond where the petitioner committed rape with the victim while co-accused Meghu Rishi kept holding on to the victim and kept her mouth pressed.

4. Learned Senior counsel appearing for the petitioner at the outset submits that the very narration of events in the F.I.R does not seem to be at all believable as the informant and the daughter was sleeping together when it is alleged that her daughter was taken away by the two accused persons. Further the allegation of one person holding on to the victim girl and pressing her mouth while other was committing rape in the manner as alleged does not inspire confidence. This submission is made in the background of the fact that the petitioner and the informant are on litigating terms since long and the judgment dated 08.03.2018 passed in the title suit has been brought on record by way of Annexure-P/3 which would go to show that the mother of the petitioner is one of the appellants and husband of the informant is one of the defendants. The said order was decreed in favour of the appellants i.e. the side of the petitioner. Learned Senior counsel for the petitioner further submits that as a matter of fact, prior to the present case, Kasba P.S. Case No.



236 of 2023 had also been filed by the mother of the co-accused Meghu Rishi against the husband of the informant namely, Md. Hussain under Section 376 of the Indian Penal Code for committing rape on niece of the co-accused Meghu Rishi. He further submits that the victim of the present case was medically examined on 10.10.2023 and her medical examination report would suggest that the age of the victim was between 15 to 17 years. There is no mark of injury seen and there was no sign of any sexual assault. The petitioner has no criminal antecedent and undertakes to cooperate in the case/trial.

5. The application for anticipatory bail is vehemently opposed by learned A.P.P. for the State and learned counsel for the informant, besides others, on the ground that the victim is a minor and she has supported the allegations in her statement recorded under Section 164 Cr.P.C.

6. It is true that the victim has supported the allegations in her statement under Section 164 of the Cr.P.C but the Court cannot shut its eyes to the other attending factors and circumstances of a civil dispute pending between the parties and the criminal case under Section 376 also lodged against the informant's husband which could provide enough reason to the informant to falsely implicate the petitioner. The medical



examination report also does not support the factum of sexual assault.

7. Taking into consideration the fact that other two co-accused persons, namely, Meghu Rishi and Saifuddin against whom the allegation is that they have facilitated the conduct of commission of offence have been granted privilege of anticipatory bail vide order dated 26.06.2024 passed in Cr. Misc. No. 36781 of 2024.

8. In view of the entire facts of the case, it is directed that the petitioner, above named, in the event of his arrest or surrender before the learned Court below within a period of four weeks, be released on anticipatory bail in connection with Kasba P.S. Case no.347 of 2023 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 6th Additional District and Sessions Judge-cum-Special Judge, POCSO, Purnea, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S, 2023 and subject to the further condition that :-

(I) One of the bailors of the petitioner shall be the family member/close relative of the petitioner.

(II) He shall co-operate in the investigation/trial and



would make himself available before the Investigating Officer
of the present case on an interval of every 15 days till the
submission of the charge-sheet.

(Soni Shrivastava, J)

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