

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52046 of 2025

Arising Out of PS. Case No.-537 Year-2024 Thana- SIKARPUR District- West Champaran

Shahbaz Miyan Son of Najim Miyan Resident of Bagahi, P.S.- Lauriya,
District - West Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. X Daughter of Mubarak Miyan Resident of Dhumnagar, Belwa Tola, Ward No.- 2, P.S.- Shikarpur, District - West Champaran.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-11-2025 Heard learned counsel appearing on behalf
of the petitioner and learned A.P.P. for the State.

2. The accused/petitioner seeks bail in connection with Shikarpur P.S. Case No. 537 of 2024 registered for the offences under Sections 341, 323, 363, 365, 366A, 376, 504, 506 of the Indian Penal Code and 4 & 8 of the POCSO Act.

3. The accused/petitioner is named in the First Information Report and is in custody since 28.05.2025.

4. As per FIR, petitioner alleged to commit rape/penetrative sexual assault upon the informant



aged about 16 years on the false pretext of marriage.

5. It is submitted by learned counsel appearing on behalf of the petitioner that occurrence alleged to be taken place on 26.07.2023 at about 6:00 pm, but the present FIR was lodged on 29.07.2024. It is submitted that for long one year the informant was in live-in-relationship with the petitioner and when for certain reasons marriage of informant could not solemnized with the petitioner, the present false case was lodged. It is pointed out that medical report is also not supported the allegation as raised through FIR.

6. It is submitted that any corporeal relations as established on the false pretext of marriage cannot be termed as rape and in support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Ansaar Mohammad Vs. State of Rajasthan and others** reported in **2022 SCC Online SC 886**.



7. While concluding argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is already completed for which charge-sheet has been submitted and as such, there is no chance of tampering with the evidence.

8. Learned A.P.P. for the State, while opposing the prayer for bail of the petitioner, submitted that allegation of penetrative sexual assault/rape is available against this petitioner.

9. Upon perusal of office report, it appears that notice was received by the father of informant/O.P. No.2. Accordingly, same deemed validly served upon her.

10. Despite of service of notice non-appeared on behalf of the informant/O.P. No. 2 to join the present proceeding.

11. In view of aforesaid factual submission and by taking note of the fact as allegation of rape *prima facie* appears to be raised against the petitioner when the marriage of informant could not solemnized with him, coupled with the fact that



petitioner remains in custody since 28.05.2025, where investigation of this case is already completed, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge - 7th - cum- Special Judge, POCSO, Bettiah, West Champaran/concerned court, in connection with Shikarpur P.S. Case No. 537 of 2024, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short "B.N.S.S.").

(Chandra Shekhar Jha, J)

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