

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60421 of 2024

Arising Out of PS. Case No.-155 Year-2022 Thana- BENIPATTI District- Madhubani

Md. Pahad @ Shahad @ Shahfahad Sheikh son of Md. Isarar Village- Makiya
Ps- Benipatti Dist- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Zikra Khatoon

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Soban Asghar, Adv.
For the Opposite Party/s : Mr. Anil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 17-01-2025 Heard the parties.

2. The accused/petitioner is named in the F.I.R.

and apprehending his arrest in connection with Benipatti

P.S. Case No. 155 of 2022 registered for the offences

punishable under Sections 341, 323(B), 420, 506, 34 of

the Indian Penal Code and Section 8 of POCSO Act.

3. The allegation against petitioner is to commit

rape upon informant on false pretext of marriage.

4. It is submitted by learned counsel appearing

on behalf of the petitioner that from the statement of

victim as available under Section 161 of the Cr.P.C. and



also as per statement recorded under Section 164 of the Cr.P.C. it can be gathered safely that she was the consenting party and only out of her consent the physical relation was established. It is submitted that the present case was lodged only when petitioner refused to marry with informant. It is pointed out that any corporeal relation out of false pretext of marriage cannot be said as rape in terms of legal ratio as available through ***Pramod Suryabhan Pawar vs. State of Maharashtra and Anr.*** reported in ***2019 (9) SCC 608.***

5 Learned APP duly assisted by Mr. Bimal Kumar, learned counsel for the informant, while opposing the prayer of anticipatory bail submitted that informant was minor at the time of occurrence however, learned counsel for the informant could not disputed the submission as advanced by learned counsel for the petitioner.

6. In view of aforesaid facts and circumstances and by taking note of fact as the present criminal case



qua rape appears *prima-facie* lodged when petitioner refused to marry the informant/victim, as it also transpires from the statement of informant as available under Section 164 of Cr.P.C., accordingly above named petitioner, in the event of his arrest or surrender before the court below within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned ADJ-VII, Madubani/concerned Court, where the case is pending in connection with Benipatti P.S. Case No. 155 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/ Section 482(2) of BNSS.

(Chandra Shekhar Jha, J)

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