

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59879 of 2025

Arising Out of PS. Case No.-41 Year-2025 Thana- MAHILA PS District- East Champaran

Sk. Muslim, S/o Late Shekh Ahamad, Resident of Village-Ajagarawa, P.O.-
Khairy, P.S.-Banjariya, District-East Champaran, Motihari

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Sharda Nand Mishra, Advocate
For the State	:	Dr. Indihar Kumari, APP
For the Informant	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-12-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State duly assisted by

learned counsel appearing for the informant.

2. The accused/petitioner seeks bail in connection
with Mahila P.S. Case No.41 of 2025 registered for the
offences punishable under Sections 70, 351(2), 79 read with
3(5) of the Bhartiya Nyaya Sanhita, 2023 (for short 'B.N.S.')
as well as Sections 66-E and 67-A of the Information and
Technology Act.

3. The accused/petitioner is named in the FIR and
is in custody since 29.04.2025.

4. Allegation against petitioner is to commit rape
upon informant aged about 50 years along with other two co-



accused persons on the point of knife and also made video of the obscene act viral.

5. It is submitted by learned counsel appearing for petitioner that independent witnesses negate the allegation as raised against petitioner during course of investigation. It is also submitted that medical report is also not appears corroborating *qua* allegation of gang rape and the FIR in issue was lodged only when the video of the occurrence made viral and that too after two or three days of the occurrence being an afterthought. While concluding argument, it is submitted that investigation of this case is already completed, and the charge-sheet in this matter has been submitted on 24.07.2025 and, therefore, in view of section 346(1) of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short 'BNSS'), the trial must be concluded within two months i.e. by end of September, 2025 but, still there is no progress in trial.

6. Learned APP duly assisted by learned counsel appearing for the informant while opposing the prayer of bail submitted that this is case of gang rape, where the regular bail of two similarly situated co-accused namely, Sk. Pappu @



Saidullah and Sk. Nasim, who are facing similar allegation has already rejected by one of the learned co-ordinate Bench of this Court through Cr. Misc. No.63308 of 2025 dated 17.09.2025. It is further submitted that non-finding of injury does not lead to conclusion *ipso facto* that rape was not committed upon as rape is a legal finding and not a medical one.

7. In view of aforesaid factual submissions and by taking note of fact, as the prayer of regular bail of similarly situated two co-accused persons has already rejected by learned co-ordinate Bench of this Court, where the allegation is also specific against this petitioner as to commit gang rape along with other co-accused persons, accordingly, the prayer of bail of petitioner stands rejected for the present.

8. However, as petitioner remains in custody since 29.04.2025 and legal mandate as to conclude the trial within two months from the date of submission of charge-sheet in view of Section 346(1) of the BNSS, the learned trial court is directed to conclude the trial at its earliest and if same appears not concluded within a period of nine months as of



now, the petitioner may renew his prayer of bail, if so advised.

9. The presence of I.O. of this case is dispensed with.

(Chandra Shekhar Jha, J.)

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