

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72057 of 2024

Arising Out of PS. Case No.-162 Year-2024 Thana- BIHARIGANJ District- Madhepura

Masoom Raza, aged about 26 years, Male, S/o- Late Faiyaz @ Faiyaz Alam,
Resident of Village-Kusthan, Police Station-Bihariganj, District-Madhepura.

... .. Petitioner

Versus

1. The State of Bihar
2. Nisha Khatoon, D/o- Md. Shahid, R/o- Village – Bihariganj, Ward No.7, P.S-
Bihari Ganj, District- Madhepura

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Shakil Ahmad Khan, Advocate
For the O.P. No. 2	:	M/S Shubhesh Pandey and Amit Kumar Mishra, Advocates
For the State	:	Mr. Shantanu Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 03-03-2025 Heard learned counsel for the petitioner, learned
counsel for the opposite party no. 2 and learned A.P.P. for the
State.

2. The petitioner seeks bail in connection with
Bihariganj P.S. Case No. 162 of 2024 dated 16.05.2024
registered for the offences punishable under Sections 323, 341,
307, 315, 376, 376(E), 420, 406, 311, 504, 506 read with
Section 34 of the I.P.C.

3. As per the prosecution case, on the pretext of
Nikah, the petitioner took Rs. 5,00,000/- from the opposite party
no. 2 for construction of his house and also the petitioner and



the other co-accused Baby Sahista took ornaments worth Rs. 8,00,000/- from the opposite party no. 2. It is further alleged that the petitioner called the opposite party no. 2 at the house of the co-accused Baby Sahista and established physical relationship with her. When she became pregnant for three months, her pregnancy was aborted by providing her medicine. It is further alleged that on the pressure of panchayati, anyhow Nikah took place between the parties and thereafter the petitioner took her to Kolkata at his sister house where they stayed for 2½ months. It is further alleged that on 18.03.2024 they were returning from Kolkata and on the way to Purnea, the petitioner left her and fled away from there. Somehow, she reached at her maike and went to the house of the petitioner then other co-accused persons abused and assaulted her. In the meantime, the petitioner tried to assault with iron rod on her head but anyhow she was saved. The other co-accused Baby Sahista assaulted with hot Karchul on her right hand. The petitioner and the other co-accused Md. Sahid tried to kill her after tying Gamachha in her neck. Anyhow, she saved her life.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the alleged occurrence took place



from 05.08.2020 to 18.03.2024 and the complaint was filed on 16.04.2024 which got registered on 16.05.2024 after a lapse of four years and the delay in lodging of the F.I.R. has not been explained by the prosecution. It is submitted that the date of occurrence is 05.08.2020 and thereafter matter has amicably settled between the parties and the Nikah between the parties was also performed on 12.01.2024 and thereafter they are living together as the husband and wife, hence, there is no question of allegation as made in the complaint/F.I.R. The petitioner is also ready to live with the opposite party no. 2 but she is not ready to live with him as stated in paragraph no. 8 of the bail petition. It is further submitted that after investigation, police found the case true under Sections 307, 498A, 504 and 506 of the I.P.C. as it is evident from paragraph no. 25 of the case diary. It is further submitted that the petitioner had never made any physical relationship with her after solemnization of marriage and hence, no Sections 376 and 376(E) of the I.P.C. is made out. The petitioner also denies that he took Rs. 5,00,000/- for construction of his house and jewellery worth Rs. 8,00,000/- from the opposite party no. 2. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 05.08.2024.



5. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 have vehemently opposed the bail petition of the petitioner. Learned counsel for the opposite party no. 2 has further submitted that on the pretext of marriage, the petitioner took Rs. 5,00,000/- and jewellery worth Rs. 8,00,000/- from the opposite party no. 2 and established physical relationship with her. Although the Nikah between the parties has been performed and when she became pregnant her pregnancy was aborted by providing her medicine and after the Nikah, the petitioner and the other co-accused persons brutally assaulted and left her.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Udakishunganj, Madhepura in connection with Bihariganj P.S. Case No. 162 of 2024 with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable



cause, the bail bonds of the petitioner are
liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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