

Arising Out of PS. Case No.-25 Year-2024 Thana- MAHILA P.S. District- Madhepura

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Mahrul Sah @ Md. Mahrul Sah son of Late Asin Sah Village- Sonbarsa Tola
Ward no.3, Ps- Chausa, Dist- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

10	01-09-2025	Heard the parties.
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2. The petitioner seeks bail in connection with Madhepura Mahila P.S. Case No. 25 of 2024 registered for the offence under Sections 64 of the BNSS.

3. The petitioner is named in the F.I.R. and is in custody since 03.07.2024.

4. The allegation against the petitioner is to commit rape upon the daughter of the informant aged about 20 years while she went to attend her nature call at about 8:30 A.M. on 01.07.2024.

5. Learned counsel appearing on behalf of the petitioner submitted that the informant, who is the mother, is not an eye witness of the occurrence and to aggravate the



allegation due to local enmity against petitioner raised the allegation of penetrative sexual assault / rape against petitioner, whereas the victim while recording her statement under Section 183 of the BNSS stated that the occurrence was mere an attempt. From the statement of victim, it appears that attempt *qua* rape as alleged was aborted in absence of any intervening circumstances and further upon medical examination nothing transpires incriminating which may suggest *prima-facie* that any attempt as alleged *qua* rape was made upon daughter of the informant.

6. While arguing further, it is submitted that victim herself is the sole witness of the occurrence and her statement is of such nature which *prima-facie* creates a doubt *qua* allegation of rape as raised though present FIR, and therefore, her statement cannot be said sterling in nature. While concluding the argument, it is submitted that petitioner claimed clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.



7. Learned APP while opposing the prayer of bail submitted that the allegation is specific against petitioner.

8. In view of aforesaid factual submission and by taking note of fact as the statement of victim as recorded under Section 183 of the BNSS, *prima-facie* negating allegation of rape, as occurrence was alleged as an attempt, coupled with fact that investigation of this case already completed, where petitioner remains in custody since 03.07.2024, accordingly petitioner above named, is directed to be released on bail in connection with Madhepura Mahila P.S. Case No. 25 of 2024 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Madhepura /concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J)

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