

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75648 of 2025

Arising Out of PS. Case No.-513 Year-2024 Thana- CHIRAIYA District- East Champaran

Rijwan @ M.D Rizwan, S/o Anwar, R/o Village - Dipahi, P.S - Chiraiya,
District - East Champaran

... .. Petitioner

Versus

1. The State of Bihar
2. XXX S/o YYY R/o Village - Dipahi, P.S - Chiraiya, District - East Champaran.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Ms. Kumari Chandna, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-11-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner is named in the FIR and apprehending his arrest in connection with Chiraiya P.S. Case No.513 of 2024 registered under Sections 126(2), 127(2), 115(2), 64, 352 read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (in short 'B.N.S.') and Section 4 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act').

3. As per FIR, the petitioner alleged to commit penetrative sexual assault upon minor daughter of informant aged about 15 years since before last six months of lodging of FIR on false pretext of marriage.



4. It is submitted by learned counsel appearing for petitioner that for the occurrence dated 16.11.2024, the present FIR was lodged on 12.12.2024 i.e. after about 26 days without any just explanation. It is pointed out that even the medical examination was said to be conducted on 20.01.2025. It is pointed out that the FIR itself suggest that when the marriage of petitioner could not solemnize with the daughter of the informant, the present false case was raised alleging that petitioner was establishing physical relation with minor daughter of informant since last six months of lodging of FIR.

5. Arguing further, it is pointed out by learned counsel that corporeal relation on false pretext of marriage cannot be termed as rape. In support of his submission, learned counsel has relied upon legal report of Hon'ble Supreme as available through **Ansaar Mohammad vs. State of Rajasthan and Ors. [2022 SCC OnLine SC 886]**. It is also pointed out that upon radiological examination, the victim was found between 18-19 years.

6. Learned APP opposed the prayer of bail.

7. In view of aforesaid factual submissions and by taking note of fact as allegation of rape *prima facie* appears to



be raised in the background of false pretext of marriage, coupled with the fact that the present FIR was lodged with unexplained delay of 26 days, accordingly, the above-named petitioner, who is a man of clean antecedent, in the event of his arrest or surrender in the court below within a period of four weeks from today, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 6th District and Additional Sessions Judge-cum-Exclusive Special Judge, POCSO Act, East Champaran at Motihari in connection with Chiraiya P.S. Case No.513 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure (in short ‘CrPC’)/under Section 482(2) of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short ‘BNSS’).

(Chandra Shekhar Jha, J.)

Sanjeet/-

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