

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76995 of 2025

Arising Out of PS. Case No.-137 Year-2025 Thana- MAHALGAON District- Araria

Md. Arbaz Alam @ Arbaz Son of Late Md. Maswood Alam @ Masood Alam
Resident Of Village - Kelabari, Ward no. 05, P.S.- Mahalgaon, Dist- Araria.
... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rinki Daughter of Rafiq Resident Of Village - Kelabari, Ward no. 05, P.S.- Mahalgaon, Dist- Araria.
... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Md Ziaul Quamar, Advocate
For the Opposite Party/s	:	Mr.Bharat Lal, APP
For the informant	:	Mr. Iqbal Asif Niazi, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 18-11-2025 Heard learned counsel appearing on behalf of the petitioner, learned Additional Public Prosecutor appearing on behalf of the State and learned counsel appearing on behalf of the informant.

2. The accused/petitioner apprehending his arrest in connection with Mahalgaon P.S. Case No. 137 of 2025 registered for the offences punishable under Sections 64, 352, 351(2), 3(5) of Bhartiya Nayay Sanhita 2023 and Section 3/4 of the Dowry Prohibition Act.

3. As per FIR, petitioner alleged to establish physical relationship with the informant who is major about 22 years for long three years. As per FIR, on 23.07.2025 the petitioner was ready for *Nikah* but certainly his family members arrived to the



parental house of the informant, where this petitioner was living for last three years prior to lodging FIR, raised suddenly the demand of dowry for Rs. 10 lacs, which also supported by this petitioner.

4. It is submitted by learned counsel appearing on behalf of the petitioner that even as per FIR, the petitioner was ready for *Nikah* till date of lodging this FIR, in terms of FIR itself and, therefore, it cannot be said that the relationship was established on false pretext of marriage. It is submitted that admittedly as per FIR, the petitioner was living with the informant in her parental home. It is submitted that reason for implication of this petitioner with present case is only when he supported his parents who raised a cash demand of Rs. 10 lacs as dowry.

5. Arguing further, it is submitted by learned counsel that even the allegation of second marriage not appears raised by the informant while authoring the FIR but subsequently as a matter of improvement, she supported that this petitioner solemnized his second marriage. It is further submitted that the corporeal relationship on false pretext of marriage cannot be termed as rape and in support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Pramod Suryabhan Pawar Vs. State of***



Maharashtra & Another, reported in ***(2019) 9 SCC 608 and Ansaar Mohammad Vs. State of Rajasthan and Another*** reported in ***2022 SCC OnLine SC 886***.

6. Learned APP, duly assisted by learned counsel Mr. Iqbal Asif Niazi appearing on behalf of the informant, while opposing the prayer of bail submitted that the informant was deceive by the petitioner and the consent to establish physical relationship was given under impression that petitioner would marry her. It is submitted that she was sexually and emotionally abused for long three years but the petitioner instead to marry informant left her and solemnized marriage with some other lady. It is also submitted by learned counsel appearing for the informant that the presumption is in favour of the informant and if she denied that no consent was given, same be treated as no consent within the meaning of Section 114A of the Indian Evidence Act.

7. In view of aforesaid factual submission and by taking note of fact as FIR itself suggests that on the date of occurrence this informant was ready for *Nikah*, where no such allegation raised through FIR that the petitioner solemnized his second marriage which raised subsequently as improved version subsequently the allegation of second marriage was improved while recording statement under Section 164 of Cr.P.C. by the



informant, coupled with the fact the informant who is 22 years old major girl lives in relationship for long three years with this petitioner and resided together in her parental home, accordingly, above named petitioner, in the event of his arrest or surrender before the learned trial Court, within a period of four weeks of the order, 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 1st Additional Sessions Judge cum Special Judge, Araria/concerned Court, where the case is pending in connection with Mahalgaon P.S. Case No. 137 of 2025, subject to the conditions as laid down under Section 482(2) of the BNSS.

8. It is made clear that observation of this court is only for the purpose of deciding present petition.

(Chandra Shekhar Jha, J)

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