

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75881 of 2025**

Arising Out of PS. Case No.-110 Year-2025 Thana- BHITAHA District- West Champaran

Sheikh Asrar @ Asrar Alam, S/o Sheikh Bhuttu @ Sagir Alam, Resident of
Village-Bhitaha Bintoli, P.S.- Bhitaha, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. Samsuddin Ansari, S/o Late Neur Mian, Resident of Village-Bhitaha Bintoli,
P.O.- Machchhaha, P.S.- Bhitaha, District- West Champaran.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, 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 Bhitaha P.S. Case No.110 of 2025 registered under Sections 64, 352, 351(3) read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (in short 'B.N.S.') as well as Sections 4 and 6 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act').

3. As per FIR, penetrative sexual assault/rape was committed by this petitioner upon minor daughter of



informant, aged about 17 years. Further, it alleged through FIR that the daughter of informant was also raped prior to five months of the occurrence by this petitioner.

4. It is submitted by learned counsel appearing for petitioner that in fact the daughter of informant, who was in love with this petitioner and when for any of the reasons, the marriage of daughter of informant could not finalized with this petitioner, the present false implication was raised. It is pointed out that one another occurrence prior to five months of present occurrence was also alleged through FIR but no any such complaint was lodged with police. It is pointed out that tenure of negotiation of marriage can be gathered through the statement of victim as recorded under Section 164 of the Code of Criminal Procedure (in short 'CrPC') though it not appears from facial perusal of FIR. It is pointed out that nothing incriminating found upon medical examination of victim in support of allegation. The petitioner claimed clean antecedent.

5. Arguing further, it is submitted that allegation of corporeal relation on false pretest of marriage cannot be



termed as rape. In support of his submission, learned counsel has relied upon legal report of Hon'ble Supreme Court as available through **Ansaar Mohammad vs. State of Rajasthan and Ors. [2022 SCC OnLine SC 886]**.

6. Learned APP opposed the prayer of bail.

7. In view of aforesaid factual and legal submissions and by taking note of fact as *prima facie* it appears that the allegation of rape/penetrative sexual assault appears to be raised when the marriage of victim could not negotiated with this petitioner, 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 District and Additional Sessions Judge-VII-cum-Special Judge (POCSO), Bettiah, West Champaran in connection with Bhitaha P.S. Case No.110 of 2025, subject to the conditions as laid down under Section 438(2) of the CrPC/under Section 482(2) of the Bhartiya Nagrik Suraksha



Sanhita, 2023 (in short ‘BNSS’).

(Chandra Shekhar Jha, J.)

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