

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.83245 of 2024

Arising Out of PS. Case No.-35 Year-2024 Thana- MAHILA P.S. District- Araria

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Md. Rais Son of Md. Seraj @ Md. Serajuddin @ Siraj Resident of Village-
Bousi, Amin Tola, Ward No. 14, P.S.- Bausi, Distt.- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shagufta Begum D/O- Md. Sahabuddin Resident of Village- Bausi, Ward
No. 14, P.S.- Bousi, Distt.- Araria

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md Naushaduzzoha
For the Opposite Party/s : Mr.Mohammad Sufyan

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 14-05-2025 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State. Despite valid service
of notice on the opposite party no.2, she has not appeared in the
present proceedings.

2. The petitioner is apprehending his arrest in a case
registered for the offence punishable under Sections 341, 323,
376, 417, 506/34 of the Indian Penal Code and Section 6 of the
POCSO Act.

3. The allegation in the First Information Report is
that the petitioner used to come to purchase articles from the
Kirana shop of the informant where she used to sleep along with



her father. It is stated that on the pretext of purchasing articles, the petitioner entered her shop and committed rape by threatening her and also assured that he would marry her and on the pretext of her marriage, physical relationship was established between the informant and the petitioner on several occasions due to which subsequently, she became pregnant and in April, 2024 when she disclosed about the pregnancy to the petitioner, he evaded the issue and further on 26.06.2024, the petitioner called her and was taking her away on a motorcycle when her father and brother came to the place of occurrence and recovered her.

4. Learned counsel for the petitioner submits that a perusal of the First Information Report would itself disclose that the present case has been filed after an inordinate delay of more than one year and has been lodged after due thought and deliberation inasmuch as the occurrence had taken place on 01.07.2023 and the First Information Report came to be lodged on 02.07.2024. It is also submitted that the informant and the petitioner seem to be in a consensual love relationship with each other and also that the informant was not a minor but an adult and she was a married lady who had subsequently been divorced. The statement of the victim girl recorded under



Section 183 of the BNSS is also on record and is part of the case diary wherein she has made similar statements about being allured for marriage by the petitioner and also that the relationship between them continued for a year and it is only after that the informant has filed the present case against the petitioner. It is also pointed out by the learned counsel for the petitioner that the girl was also put to medical examination and her medical report discloses her age to be between 18-22 years and upon her physical examination, no sign of sexual assault has been found.

5. Learned APP for the State has opposed the application for anticipatory bail.

6. In view of such facts and circumstances, the applicability of POCSO Act seems to be doubtful and the other allegations point towards consensual relationship. Hence, let the above named petitioner in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, be enlarged 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 court below where the case is pending/successor court in connection with Araria (Mahila) P.S. Case No. 35 of 2024, subject to the condition as



laid down under Section 438 (2) of the Cr.P.C./482(2) of the
B.N.S.S.

(Soni Shrivastava, J)

devendra/-

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