

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2658 of 2025

Arising Out of PS. Case No.-328 Year-2024 Thana- RANIGANJ District- Araria

Jahana Khatoon @ Jahana Khatun Daughter of Md. Salim Resident of Village
- Lakshmipur, Ward No.- 10, Police Station - Srinagar, District - Madhepura.
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dheeraj Kumar, Advocate
		Mr. Rabindra Kr. Priyadarshi, Adv.
For the Opposite Party/s	:	Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 22-01-2025 Heard Learned Counsel for the petitioner and

Learned APP for the State.

2. The present Criminal Miscellaneous application has been filed under Sections 483 and 484 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “the BNSS”) for seeking regular bail in connection with Raniganj P.S. Case No. 328 of 2024, lodged on 22.07.2024, for the offences punishable under Sections 93, 98, 99, 111(5) and 143(4) of the BNS, 2023.

3. As per the prosecution, F.I.R. has been lodged by the A.S.I., Raniganj Police Station, alleging that the accused persons have committed the offence of human trafficking.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel



further submits that from bare reading of the FIR, it becomes crystal clear that the present petitioner is not an accused but rather a victim, as it has been alleged that she was also subjected to marriage through fraudulent means. Counsel further submits that the criminal antecedent of the petitioner is clean and she is in custody since 23.07.2024. Counsel also submits that the petitioner is ready to fulfill all the conditions whatsoever shall be imposed by the Court. In this background, it is prayed that bail may be granted to the petitioner.

5. Learned APP for the State opposes the prayer for bail and submits that the present case has been lodged under Sections 93, 98, 99, 111(5) and 143(4) of the BNS Act, 2023. Counsel further submits that Section 93 of the BNS Act deals about exposure and abandonment of a child under 12 years of age by a parent or person having care of the child, for which prescribed punishment is up to 7 years of imprisonment, a fine, or both. Counsel also submits that Section 98 of the BNS Act states about the selling of a child for the purpose of prostitution for which punishment is prescribed up to 10 years of imprisonment along with a fine. Counsel further submits that Section 111(5) addresses organized crime, stating that any person who intentionally harbors or conceals any person, who



has committed the offence involved in organized crime shall be punished with imprisonment which shall not be less than 3 years, which may extend to imprisonment for life and shall also be liable of a fine which shall not be less than Rs. 5 lakhs. Furthermore, Section 143(4) of the BNS Act deals with the trafficking of a person, where the offence involved in trafficking of a child, it shall be punishable with rigorous imprisonment, for a term not less than 10 years but which may extend to imprisonment for life and shall also be liable of a fine.

6. Counsel further submits that in this case, the selling of a minor child was done by the child's mother. He further submits that it is true that the present petitioner was subjected to marriage by the co-accused, namely, Shah Mazhar, the allegation made in the FIR do not indicate the petitioner's involvement in trafficking or selling. However, it is alleged that the petitioner kept mum about the wrongful acts committed by the co-accused. Therefore, Counsel prays that the bail application of the petitioner be rejected.

7. It transpires to this Court that the provisions of Trafficking Act have not been included in the present FIR. However, based on the *fardbyan*, it, *prima facie*, transpires to this Court that the petitioner is a victim in the present case and



has not been actively involved or played any role in the trafficking of the child. On the other hand, if it is established that the petitioner had knowledge of the sale of the girl but chose to remain silent, such an omission, in the opinion of the Court, falls under the purview of Section 3(7), which categorizes her role as wrongful.

8. Upon the specific query from the Court to the Counsel for the petitioner regarding whether the charge has been framed or not. In response thereof, Counsel submits that charge has already been framed in this case.

9. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) as mentioned in Section 2(1) (d) of the BNSS, 2023 to the satisfaction of Chief Judicial Magistrate, Araria in connection with Raniganj P.S. Case No. 328 of 2024, subject to the following conditions as laid down under Section 480(3) of the BNSS.

(Dr. Anshuman, J.)

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