

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6086 of 2025

Arising Out of PS. Case No.-202 Year-2024 Thana- WARISNAGAR District- Samastipur

Abhishek Kumar Son of Dharmesh Prasad Resident of Village - Shobhan
Tara, P.S. - Khanpur, District - Samastipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar, Advocate
For the Informant : Mr.kaushal Kishore, Advocate
For the Opposite Party/s : Mr.Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

10 07-01-2026 Heard Mr. Dhirendra Kumar, learned counsel for the
petitioner, Mr. Kaushal Kishore, learned counsel appearing for
the informant and Mr. Bishweshwar Ram, learned APP for the
State.

2. The accused-petitioner, named in the F.I.R., is
apprehending his arrest in connection with Warishnagar P.S.
Case No. 202 of 2024 registered for the offences punishable
under Sections 126(2), 115(2), 69, 88, 3(5) of the Bhartiya
Nyay Sanhita, 2023 (in short, the 'B.N.S.').

3. The allegation against the petitioner is to establish
physical relationship with the informant/victim on the false
pretext of marriage.

4. It is submitted by Mr. Dhirendra Kumar, learned



counsel appearing for the petitioner that relationship of petitioner with the informant/victim was consensual, who was admittedly major aged about 22 years and was in relationship with the petitioner for long two years.

5. It is pointed out that during course of investigation several witnesses supported that petitioner falsely implicated with the present case. It is further pointed out that during investigation, it transpires that informant/victim was not visited the nursing home on the date which she claimed to visit for her medical termination of pregnancy as per CCTV footage of said hospital. It is submitted by learned counsel that in view of non-convincing allegation of abortion, the allegation of physical relationship also *prima facie* false on its face.

6. Learned counsel further submitted that the statement of victim also appears contradictory to the extent of period of relationship and also the place where said relationship were established on multiple occasions with the petitioner, which further makes the occurrence doubtful on its face.

7. In view of aforesaid submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Biswajyoti Chatterjee Vs. State of West**



Bengal and Another reported in **(2025) 5 SCC 749** and also relied upon the legal report of Hon'ble Chhattisgarh High Court as available through **Prem Netam Vs. State of Chhattisgarh through Station House Officer** reported in **2024 SCC Online Chh 10471**.

8. Learned A.P.P. for the State duly assisted by Mr. Kaushal Kishore, learned counsel appearing for the informant/victim, while opposing the prayer of anticipatory bail of the petitioner, submitted that petitioner was in relationship with the informant/victim for long two years and out of said relationship, she became pregnant, which was terminated after seven weeks, upon persuasion of this petitioner to get it terminate on assurance to solemnize marriage with her thereafter only.

9. It is submitted by Mr. Kishore that in furtherance of same, the pregnancy of the informant/victim was terminated with changed name namely, Ms. Muskan Kumari, in Life Imagine and Diagnostic Centre, Samastipur on 6th of December, 2023.

10. In support of this fact, learned counsel *qua* informant drawn attention of this Court towards statement of



father of the informant/victim recorded during course of investigation, where he also stated that after termination of pregnancy the physical condition of his daughter was deteriorated and thereafter he and other family members came to know that informant was in relationship with the petitioner and her medical complexities arising out of termination of her pregnancy.

11. It is further pointed out that the contradiction as submitted by learned counsel appearing for the petitioner appears minor in nature i.e. regarding duration of relationship and also regarding the place where relationship established between the informant and petitioner, but starting from FIR up-to 183 B.N.S.S. statement recorded by the informant/victim including statement under section 180 of the B.N.S.S., allegation *qua* physical relationship and also the termination of pregnancy appears consistent and there is no variation on this score.

12. Arguing further, it is submitted that the offence under section 69 of the B.N.S.S. is a distinct offence where the consent, if obtained with deceitful means, is sufficient in itself to attract the offence punishable under section 69 of the B.N.S.S.



It is submitted that factual aspect of this case categorically stated that consent of the informant/victim was obtained by deceitful means under false promise of marriage.

13. At this stage, learned counsel appearing for the petitioner submitted that the FIR in issue was lodged with an unexplained delay of about one month.

14. Taking note of the aforesaid submission, learned counsel for the informant/victim submitted that aforesaid delay was due to assurance of marriage arising out of local panchayati. It is also pointed out that the last occurrence took place on 18.07.2024, when the informant/victim visited to the house of petitioner, where she and her family members were assaulted by the family members of petitioner and only after 26 days the present FIR was lodged on 14.08.2024. The aforesaid delay is well explained which is a normal delay in rural area and on the basis of delay of just 26 days, it cannot be said that allegation was lodged as a matter of an afterthought for false implication.

15. In view of aforesaid factual submission and by taking note of the fact as the allegation as to establish physical relationship on false pretext of marriage is specifically available



against this petitioner which is consistent throughout FIR, statement of informant/victim recorded under Section 180 of the B.N.S.S. as well as section 183 of the B.N.S.S. where non-finding of convincing material qua abortion does not lead to conclusion *ipso facto* that no physical relationship as alleged was established by deceitful means under false promise of marriage for which distinct offence first time was introduced in B.N.S.S. under section 69, accordingly, prayer of anticipatory bail of the petitioner stands rejected.

16. However, petitioner be at liberty to pray for regular bail before the court concerned, which be decided in accordance with law without being prejudiced by this order.

(Chandra Shekhar Jha, J)

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