

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.11682 of 2026**

Arising Out of PS. Case No.-50 Year-2025 Thana- MAHILA P.S. District- Kishanganj

Ashfaq Alam @ Asfaq S/o Late Sagir Resident of vill- Kothi tola, P.S.-  
Bahadurganj, Dist- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Raj Kumar, Adv.

For the Opposite Party/s : Mr.Lalan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR**

ORAL ORDER

4      18-05-2026                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Mahila P.S. Case No. 50 of 2025 dated 22.06.2025 registered for the offence punishable under Section/s 64(1), 69, 126(2), 115(2), 351(2), 351(3), 3(5) of the B.N.S., 2023.

3. The prosecution case, in brief, is that on 20.03.2023 Ashfaq Alam (petitioner) entered into the house of the Informant and committed rape upon her and, thereafter, induced her into repeated physical relations on the false promise of marriage, which was allegedly supported by his family members. It is further alleged that the accused persons subsequently solemnized the marriage of Ashfaq Alam with



another girl. Upon learning this, when the informant visited his house on 31.05.2025, the accused persons allegedly assaulted her and threatened her with dire consequences.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged in the F.I.R. It is next submitted that, from the F.I.R. itself, it is evident that the informant was a major and was aware of the legal consequences and, despite such awareness, she is alleged to have established physical relationship with the petitioner. It is further submitted that the allegation of establishing physical relationship is not supported by the medical report which forms part of the case diary. The medical report of Sadar Hospital, Kishanganj opines that there is no evidence of recent sexual intercourse. Lastly, it is submitted that the petitioner is a person of clean antecedent.

5. Learned counsel for the petitioner, at this stage, referring to the various judgment rendered by the Hon'ble Supreme Court in the case of *Ansaar Mohammad v. The State of Rajasthan & Anr* passed in **Criminal Appeal No. 962 of 2022 @ SLP (CRL) No. 5326 of 2022**, *Naim Ahamed v. State (NCT of Delhi)* reported in **2023 SCC OnLine SC 89** and *Amol Bhagwan Nehul v. State of Maharashtra & Anr.* reported in **2025 SCC OnLine SC 1230** submits the Hon'ble Apex Court in the



aforementioned cases has held that the girl who alleged to have established physical relationship with a person on the promise of marriage is always aware of the consequences and while being aware of such consequences, if such acts are committed, then no criminality could be found out in such relationship, which has been established with consent and both the informant as well as the petitioner are said to be major and are well aware of the consequences.

6. Learned APP for the State opposes the prayer for grant of anticipatory bail.

7. Considering the aforesaid submissions of the parties and taking note of the fact that both the victim and the petitioner are majors, and that the sexual relationship was established with mutual consent, with no criminality being found in the relationship in light of the judgment of the Hon'ble Apex Court, and further considering the medical report of the informant, which reveals no evidence of any recent sexual intercourse between the parties, this Court is inclined to extend to the petitioner the privilege of anticipatory bail.

8. Let the petitioner, above named, be released on anticipatory bail in the event of his arrest or surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with



two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Kishanganj in connection with Mahila P.S. Case No. 50 of 2025, subject to the conditions as laid down under Section 482(2) of the B.N.S.S. as well as the following conditions:

(i) One of the bailors should be the family member/relative/known of the petitioner(s) who shall provide official document / personal affidavit to show his/her bona fide;

(ii) the petitioner(s) shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner(s) shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

**(Ajit Kumar, J)**

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