

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14078 of 2026

Arising Out of PS. Case No.-165 Year-2025 Thana- HATHAURI District- Muzaffarpur

Mukesh Sahni S/o Late Hriday Sahni R/o Village- Simri Basant, Ward No.02,
P.S- Hathauri, Dist- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mithlesh Devi W/o Inardev Sahni R/o Village- Simri Basant Ward No.3, P.S-
Hathauri, Dist- Muzaffarpur.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

4 18-05-2026 Heard learned counsel for the petitioner and learned
APP for the State through video conferencing.

2. The petitioner is apprehending his arrest in connection with Hathauri P.S. Case No. 165 of 2025 for the offence punishable under sections 64(1) of the BNS and Sections 4/6/12 of the POCSO Act, lodged on 17.09.2025 by the informant.

3. As per the prosecution case, the allegation against the petitioner is that on 08.09.2025, while the minor daughter of the informant had gone to ease herself in a field of the village, Simri Basant, the petitioner pounced upon and raped her forcefully. When she tried to protest to rescue herself, the petitioner assaulted and threatened her of dire consequences.



It is also stated in the FIR that due to social stigma, the FIR was lodged after some delay.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case due to village enmity and ulterior motive. There is an unexplained delay in lodging of the FIR creating serious doubts regarding the authenticity of the incident which also suggests that the FIR is an afterthought move in order to exert unnecessary pressure and extract money.

5. *Per contra*, learned APP for the State vehemently opposes the prayer for anticipatory bail and submits that there is a specific and direct allegation against the petitioner of having committed sexual assault on the minor victim who has gone to attend call of nature on 08.09.2026 and she is also said to have been caused injuries on protest. In this case, the case diary was called for, and the statement of the victim under Section 183 of BNSS was recorded wherein she has categorically stated that the victim was subjected to sexual assault and on alarm being raised the victim's sister-in-law came and on her intervention the petitioner relieved her/victim. So far delay in lodging of the FIR is concerned, in such cases, sufficient time is taken to pursue legal remedies due to social stigma. The said proposition



of delay in lodging of the FIR has also been supported in the case of *Satpal Singh vs State of Haryana reported in (2010) 8 SCC 714, wherein* it has been held as follows:-

"13. In a rape case the prosecutrix remains worried about her future. She remains in traumatic state of mind. The family of the victim generally shows reluctance to go to the police station because of society's attitude towards such a woman. It casts doubts and shame upon her rather than comfort and sympathise with her. Family remains concerned about its honour and reputation of the prosecutrix. After only having a cool thought it is possible for the family to lodge a complaint in sexual offences (Vide *Karnel Singh Vis. State of M.P AIR 1995 SC 2472: and State of Punjabi Vis. Gurmeet Singh & Ors. reported in AIR 1996 SC 1393*)

14. This Court has consistently highlighted the reasons, objects and means of prompt lodging of FIR. Delay in lodging FIR more often than not results in embellishment and exaggeration, which is a creature of an afterthought. A delayed report not only gets benefit of the advantage of spontaneity the danger of the introduction of a coloured version, an exaggerated account of the incident or a concocted story as a result of deliberations and consultations, also creeps in, casting a serious doubt on its veracity. Thus, FIR is to be filed more promptly and if there is any delay the prosecution must furnish a satisfactory explanation for the same for the reason that in case the substratum of the evidence given by the complainant/informant is found to be



unreliable, the prosecution case has to be rejected in its entirety (*vide State of Andhra Pradesh Vs. M. Madhusudhan Rao reported in (2008) 15 SCC 582*)

15. However, no straight jacket formula can be laid down in this regard. In case of sexual offences, the criteria may be different altogether. As honour of the family is involved, its members have to decide whether to take the matter to the court or not in such a fact-situation, near relations of the prosecutrix may take time as to what course of action should be adopted. Thus, delay is bound to occur. This Court has always taken judicial notice of the fact that "ordinarily the family of the victim would not intend to get a stigma attached to the victim. Delay in lodging the First Information Report in a case of this nature is a normal phenomenon [*vide Satyapal Vs. State of Haryana AIR 2009 SC 2190*)"

In the case of State of *Himachal Pradesh Vs. Prem Singh*, it was held that:-

"So far as the delay in lodging the FIR is concerned, the delay in a case of sexual assault, cannot be equated with the case involving other offences." In a tradition-bound country like India, multiple factors are considered by the victim and her family before filing an FIR but it would be quite unfair to quash an FIR basis any delay caused by such consideration.

The Supreme Court in the case of *Tulsidas Kanolkar v State of Goa reported in (2003) 8 SCC 590* wherein it was held that, "delay per se is not a mitigating circumstance for the accused when accusations of rape are involved." Delay in filing an FIR cannot be taken as a 'ritualistic



formula for throwing away the case or for casting a doubt on the authenticity of the prosecution's claims’.

6. Considering the nature of the allegations made in the FIR which has fully been in supported by minor victim in her statements made under Section 183 of the BNSS, this Court is not inclined to grant bail to this petitioner.

7. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

(Ajit Kumar, J)

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