

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27158 of 2026

Arising Out of PS. Case No.-165 Year-2019 Thana- BATHNAHA District- Sitamarhi

Md. Shahabuddin Son of Abdul Salam R/o Village - Harpur Bhalha Tola
Bhawanipur, P.S. - Bathnaha, Dist. - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Informant (Victim) Wife of Md.Shahabuddin, D/o- Aashik Resident of
Village- Bhawanipur, P.S- Bathnaha, District- Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raja Ram Rai

For the Opposite Party/s : Mr.Jagdhar Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 28-04-2026 Heard the parties.

2. The petitioner is named in the F.I.R. and apprehending his arrest in connection with Bathnaha P.S. Case No. 165 of 2019 registered for the offences punishable under Sections 323 and 376 of the Indian Penal Code.

3. As per FIR, petitioner committed rape upon informant on false pretext of marriage.

4. It is submitted by learned counsel appearing on behalf of the petitioner that in view of annexure P/4, which is the school transfer certificate of the victim showing her date of birth 01.01.2001, thus by suggesting that on the date of filing of present complaint/FIR she was major i.e., more than 18 years. It is submitted that corporeal relation on false pretext of marriage is



not amounting to rape, in support of his submission learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Pramod Suryabhan Pawar Vs. State of Maharashtra and Another [(2019) 9 SCC 608] & Ansaar Mohammad Vs. State of Rajasthan and Another, [2022 SCC OnLine SC 886]**. It is further argued by learned counsel that informant solemnized marriage with petitioner and they are living happy married life and they have two children from present wedlock and for only technical reason that the offence in issue is non-compoundable, prayer of anticipatory bail of petitioner was rejected by overlooking the aforesaid legal ratio as settled.

5. Learned APP opposes the prayer of bail.

6. In view of aforesaid factual and legal submission and by taking note of fact as petitioner solemnized marriage with informant, therefore, establishing physical relationship on false pretext of marriage prima-facie appears non-convincing, accordingly petitioner above-named, in the event of his arrest or surrender before the court below within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned District and Additional Sessions Judge-IV cum Exclusive Special Judge (Rape



& POCO), Sitamarhi/concerned Court, where the case is pending in connection with Bathnaha P.S. Case No. 165 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/ Section 482(2) of BNSS.

(Chandra Shekhar Jha, J)

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