

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60649 of 2025

Arising Out of PS. Case No.-2 Year-2025 Thana- MAHILA P.S. District- Muzaffarpur

Akash kumar @ Aakash Kumar Son of Garib Nath Sah Resident of Vill. -
Bishunpur Jagdish, Athar Bansman,P.S.- Mushahari, Dist.-Muzaffarpur,
Bihar, Pin-843118.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sarita Kumari D/o Javahar Sah Resident of Mohalla Akharaghat P S
Sikandarpur Dist Muzaffarpur Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anmol Kumar, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 11-02-2026 Heard Mr. Anmol Kumar, learned counsel appearing
on behalf of the petitioner and Mr. Ajit Kumar, learned APP for
the State.

2. The petitioner seeks pre-arrest bail in connection
with Mahila P.S. Case No. 02 of 2025 registered for the
offence(s) punishable under Sections 85,318(4),89,351(2) of the
BNS and Section 3,4 of the D.P. Act.

3. Admitted fact of the case is that the informant was
in relationship with the petitioner in spite the petitioner having
got subsequently married in the year 2024. Thereafter, the
present FIR has been lodged by the informant on 21.01.2025 on
the ground of alleged cruelty and forceful abortion of the foetus,



supported by her statement recorded under Section 183 BNSS.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and it is admitted that informant was having consensual relationship with the petitioner, in which course, both willingly cohabited, which led to the informant to conceive, however, the miscarriage took place. It is submitted that in absence of any medical report in respect of miscarriage of foetus or forceful abortion, the allegation against the petitioner cannot sustain that he was the one who had forced the informant to abort the baby or he forcefully got the baby aborted. No prescription or any medical report is on record, nor the same is mentioned in the FIR. Referring to paragraph no.58 of the case diary, learned counsel submitted that the informant herself has admitted that she has not got examined by a doctor. The petitioner has clean antecedent.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail. He submitted that the offence is serious in nature and petitioner don't deserve to be released on pre-arrest bail.

6. Having heard the rival submissions made on behalf of the parties, as well as, having perused the allegation made in



the FIR and the material which has surfaced in course of the investigation, it is apparent that both parties were major and in relationship for years together and never objected in any manner and during the said period, they indulged in consensual sexual relationship. Law in this regard is well settled by the Apex Court in case of **Naim Ahmed Vs. State (NCT of Delhi)**, reported in **2023 SCC Online SC 89**. I find that the allegation of forceful abortion of foetus is not supported by any evidence and in paragraph no.58 of the case diary, the informant herself has admitted that she has not been examined by a doctor to support the alleged forceful abortion. Further, it is evident that the petitioner and informant were major and the informant knowingly developed intimate relationship with the petitioner for which she is herself responsible and when their relationship became strained, the informant lodged the present FIR. I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the learned District Court 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 J.M.F.C. Court no.-16, Muzaffarpur (East) / Concerned Court in connection with Mahila P.S. Case No. 02 of 2025, subject to the conditions as laid down under Section 482(2) of the BNSS.

8. The learned District Court is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases, as what has been stated in paragraph no.3 of the bail application, this order will automatically lose its force.

(Purnendu Singh, J)

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