IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67812 of 2026

CNR No. BRHC010936342026

Arising Out of PS. Case No.-9 Year-2026 Thana- BAHERA District- Darbhanga

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Avinash Paswan @ Avinash Kumar Paswan Son of Sanjay Paswan Resident of village- Sajhuar, P.S.- Bahera, District- Darbhanga.

... ... Petitioner

Versus

The State of Bihar

... ... Opposite Party

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Appearance :
For the Petitioner : Mr. Sabal Kumar Jha, Adv.
For the Opposite Party : Mr. Madan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

3 04-11-2026 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner seeks bail in connection with Bahera P.S. Case No.09 of 2026 registered for the offences punishable under Sections 126(2), 64(1), 351(2), 352, 303(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'B.N.S.').

3. The petitioner is named in the FIR and is in custody since 09.07.2026.

4. Allegation against the petitioner is to establish physical relationship with the informant aged about 19 years upon false pretext of marriage.

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5. It is submitted by learned counsel appearing for petitioner that admittedly the informant was major and she was in relationship with this petitioner. It is pointed out that subsequently on 17.04.2026, the petitioner was also alleged to commit rape upon the informant, whereafter, the matter was discussed by the local society and, thereafter, with the consent of family members, the marriage was solemnized between the parties. It is submitted that for said occurrence police registered a case, which has been registered as Bahera P.S. Case No. 218 of 2026 on 19.04.2026. It is submitted that petitioner was granted bail in aforesaid subsequent Bahera Case by one of the learned co-ordinate Bench of this Court through Cr. Misc No. 45999 of 2026, dated 09.07.2026

6. In the aforesaid background, it is submitted that as petitioner subsequently solemnized marriage with the informant, therefore, the allegation as raised through FIR is not appears convincing.

7. While concluding argument, it is submitted that any corporeal relationhip cannot be termed as rape

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particularly under false promise for marriage. In support of his submission learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***Ansaar Mohammad vs. State of Rajasthan and Ors. [2022 SCC OnLine SC 886]*** and ***Pramod Suryabhan Pawar Vs. State of Maharashtra and Ors. [2019 9 SCC 608].*** While concluding argument, it is submitted that investigation of this case has already completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence. While explaining criminal antecedent, it is submitted that petitioner found involved in one more case, where he is on bail.

8. Learned APP opposed the prayer for grant of bail to the petitioner.

9. In view of aforesaid factual submissions and by taking note of fact as admittedly the informant was major and she was in relationship with this petitioner who subsequently married her as discussed aforesaid coupled with the fact that investigation of this case has already completed, wherein petitioner remains in custody since

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09.07.2026, accordingly, the petitioner, above-named, 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 court of A.C.J.M., Benipur at Darbhanga, in connection with Bahera P.S. Case No.09 of 2026 subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short 'CrPC')/under Section 480(3) of the Bharatiya Nagarik Suraksha Sanhita (for short 'BNSS').

(Chandra Shekhar Jha, J.)

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