

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83565 of 2025

Arising Out of PS. Case No.-248 Year-2025 Thana- SHIVSAGAR District- Rohtas

Aun Mohammad S/O Saiyed Karar Hussain @ Sayed Karar Hussain R/O
Village- Pakhnari, P.S- Shivsagar, District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashwani Kumar Tiwary, Advocate
For the Opposite Party/s	:	Mr.Ramchandra Sahni, APP
For the Informant	:	Mr. Rajni Kant Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

3 28-01-2026 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has prayed for regular bail in a case registered for offences punishable under Sections 191(2), 190, 126(2), 329(24), 74, 115(2), 117(2), 352, 351(c), and 64 of the Bharatiya Nyaya Sanhita, 2023.

3. The case of the prosecution is that when the father of the victim was ill, the petitioner started visiting the house of the informant, and in this manner, a relationship developed between the petitioner and the informant. The petitioner promised to marry the informant and, on this promise, established a physical relationship with her. It is further alleged that on 27.07.2025, when the family members of the informant



had gone out at about 9:00 P.M., the petitioner forcibly established a physical relationship with her and assaulted her. When the informant raised an alarm, her father arrived at home and was also assaulted by the petitioner. The petitioner also threatened the informant that he would marry her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is further submitted that both the informant and the petitioner are majors and, from the prosecution story itself, it is clear that prior to the alleged occurrence, they had a physical relationship. It is also submitted that from perusal of the medical examination report placed at page 24 of the brief, it would transpire that the doctor found nothing conclusive. Moreover, the petitioner is in judicial custody since 20.08.2025 and has no criminal antecedents.

5. During the course of investigation, the statement of the victim was recorded under Sections 180 and 183 of the BNSS wherein she has supported the case of the prosecution. From perusal of the medical examination report, it is evident that an abrasion measuring $\frac{1}{4}'' \times \frac{1}{6}''$ over the left shoulder and a bruise measuring $6'' \times \frac{1}{2}''$ over the anterolateral aspect of the left thigh, blackish in colour, were found. An old tear of the



hymen was also noted.

6. The opinion of the doctor is peculiar, as the doctor opined that on the basis of clinical and pathological examination, it is very difficult to say whether recent sexual intercourse is to be done or not. However, from the medical examination report, it is clear that there is evidence of resistance on the part of the victim, as reflected from the injuries found on her person.

7. From the first part of the FIR, it is apparent that the informant had earlier physical relations with the petitioner, however, as far as the occurrence dated 27.07.2025 is concerned, the allegation is that the act was committed forcibly. It is settled law that merely because a man had physical relations with a woman earlier, it does not give him a perpetual right to have sexual intercourse with her. Consent is required for every act. Therefore, the argument advanced by learned counsel for the petitioner that the parties were in a relationship does not hold merit.

8. Learned counsel for the informant has vehemently opposed the prayer for regular bail.

9. Considering the facts and circumstances of the case, the arguments advanced by the parties, and the materials



available on record, I am not inclined to extend the privilege of bail to the petitioner at this stage. Accordingly, the prayer for bail is rejected. However, the petitioner may renew his prayer for bail after six months, if the trial is not concluded by then. The learned trial court is directed to expedite the trial.

10. Before parting, it is observed that the opinion rendered by the doctor is unsatisfactory. Such an opinion should not be given in future. The Civil Surgeon concerned is directed to examine the opinion rendered by the doctor and take appropriate action in accordance with law.

(Ashok Kumar Pandey, J)

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