

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12492 of 2026

Arising Out of PS. Case No.-192 Year-2025 Thana- GOPALPUR District- West Champaran

Ghutuk Miyan @ Ismail Miyan, S/o Hanif Miyan, R/o Village - Mahesda, P.O
- Sundergawn, P.S - Gopalpur, District - West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX W/o YYY R/o Village - Mahesda, P.S - Gopalpur, District - West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Kumari Akanksha Rai, Advocate Mr. Sarvesh Kashyap, Advocate Mr. Deepak Kumar, Advocate
For the Informant	:	Mr. Bimlesh Kumar Pandey, Advocate Mr. Satyam Kumar Ojha, Advocate
For the State	:	Mr. Abhay Kumar Roy, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 28-04-2026 Heard Mrs. Kumari Akanksha Rai, learned counsel appearing on behalf of the petitioner; Mr. Bimlesh Kumar Pandey along with Mr. Satyam Kumar Ojha, learned counsel for the informant and Mr. Abhay Kumar Roy, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Gopalpur P.S. Case No. 192 of 2025 registered for the offence punishable under Sections 126(2), 115(2), 64, 351(2), 352 and 3(5) of the BNS.

3. As per the allegation made in the FIR, the petitioner had allegedly committed rape upon the informant while her



husband was not present in the house. The rape was allegedly committed in presence of her 11 years old son.

4. Learned counsel appearing on behalf of the petitioner submitted that the manner in which the allegation has been narrated itself makes the allegation of commission of rape doubtful as it is the case of the informant that she was taken into lap and, thereafter, without having resisted to the same act of the petitioner, she was taken to another room where the rape was committed in presence of her 11 years old son, who has supported the prosecution case along with the victim, who is the informant of this case. Learned counsel further submitted that the victim was examined by the doctor and the doctor has opined that there is no trace of any recent sexual assault having been committed. Learned counsel further submitted that seventy five thousand rupees of the petitioner was due with the informant and not to make payment of the same, on a false allegation, the informant has lodged the present FIR. She further submitted that on these grounds, co-ordinate Bench of this Court had granted interim relief to the petitioner and, as such, in absence of any evidence, the petitioner deserve to be released on pre-arrest bail.

5. Learned counsel appearing on behalf of the



informant, referring to the impugned order of the learned District Court, submitted that enough evidences have been collected in course of investigation and the petitioner having taken advantage of the absence of the husband of the informant, had committed rape, which was in presence of her 11 years old son and the statement of her son was also recorded under Section 180 of the BNSS before the Investigating Officer, in which, he has supported the prosecution story. He further submitted that it is not a case of tutoring of the 11 years old child, who is innocent and his version is required to be given emphasis, particularly, in case where rape is committed. Learned counsel further submitted that the petitioner has not taken any plea that the child was tutored and has narrated a false story under Section 180 of the BNSS before the Investigating Officer. Learned counsel on these grounds, submitted that evidences are there, which suggest that the petitioner has committed rape upon the victim, who is the informant.

6. Learned APP for the State has also vehemently opposed the prayer for grant of pre-arrest bail.

7. Having heard the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR, from the manner in which the entire story has been



narrated, it appears to be shaky to the extent that learned counsel appearing on behalf of the petitioner has rightly submitted that no one can carry a female in his lap without her desire. No force was applied by the informant, however, the informant has supported the allegation made in the FIR, in her statement recorded under Section 183 of the BNSS and the same is also supported by the 11 years old child in his statement recorded under Section 180 of the BNSS before the Investigating Officer.

8. In such circumstances, I direct the learned District Court to first get the statement of the 11 years old child of the informant recorded under Section 183 of the BNSS by a child friendly Court and if the learned District Court finds that the 11 years old child of the informant has not supported the allegation as alleged in the FIR, then in that case, the petitioner, above named, is directed to be released on pre-arrest bail, in the event of his/her 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 the learned District Court where the case is pending, in connection with Gopalpur P.S. Case No. 192 of 2025, subject to the condition as laid down under Section 482(2) of the BNSS.



9. If the child supports the allegations made in the FIR, in his statement recorded under Section 183 of the BNSS, then in that case, the petitioner is directed to be taken into custody forthwith.

10. The learned District Court is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

11. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

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