

**IN THE COURT OF PRINCIPAL DISTRICT & SESSION JUDGE,
MUZAFFARPUR.**

**Civil Court, Muzaffarpur, Bihar - 842001.
A.B.P. No. 113/2026 (BRMZ01004242026)
(Arising out of Sakra P.S. Case No. 498/2025)
Vishal Kumar V/s The State of Bihar**

ABP No.:	113/2026
FIR No.:	498 of 2025
Name of P.S.-	Sakra
U/Section.:	126(2), 115(2), 69, 303(2), 351(2), 76, 352, 3(5) BNS.
Dated:	21.05.2026
Present:	Sri Ajay Kumar, learned P. P. for the State. Sri Treta Kumar Dubey , learned counsel for the petitioners/accused. Smt. Rukhsar Jabi, learned counsel for the informant.

- (1) Heard, learned P.P. for the State and the learned Counsel on behalf of the petitioner/accused Vishal Kumar, S/o Vinod Rai.
- (2) The Petitioner is seeking anticipatory bail under section 482(2) of the BNSS, apprehending his arrest in Sakra P.S. Case No. 498 of 2025, registered under sections 126(2), 115(2), 69, 303(2), 351(2), 76, 352, 3(5) BNS.
- (3) Ld. counsel for the petitioner submits that no other bail petition either regular or anticipatory has been previously moved before this court or the Hon'ble High Court.
- (4) The Ld. Counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. He further submitted that the relationship between the petitioner and the informant if any, was purely consensual and there is no question of an offence under Section 69 BNS. A perusal of the FIR and the record would establish that the informant did not enter into a relationship with the petitioner under coercion or undue influence, or under the mistaken belief or a false assurance of marriage.
- (5) The case of the informant Juli Kumari is that she got married to one Manish Kumar two years ago and he usually stayed out for work. Her neighbor Vishal Kumar used to visit her house frequently and in due course of time, they entered into a physical relationship and Vishal Kumar used to exploit her sexually, on the pretext of marrying her. On 26.09.2025, Vishal Kumar asked her to get married and on this, she carried her jewelry and cash and went to his house. On seeing her, he went inside the house and when she was tried to enter his house, the accused including his family-members assaulted her and threw her out, keeping her jewelry and cash.
- (6) The learned P.P. for the state opposed the present anticipatory bail petition.

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(7) The learned Counsel appearing on behalf of the informant submitted that she had entered into a physical relationship with the petitioner solely for the reason that he had promised to marry her and had it not been for the promise of marriage made by the petitioner, she would have never entered into a physical relationship with him.

(8) At the outset, it is relevant to refer to the ratio led down in the case of *Naim Ahmed Vs State (NCT) of Delhi*, whereby Hon'ble Apex Court had observed as under:

"21. The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court."

(9) Thus, the Hon'ble Courts have consistently ruled that "misconception of fact" must happen within a close proximity of time. If a relationship continues over a prolonged period (e.g., several years) and the parties meet frequently, the law considers the woman's consent to be a conscious, informed choice rather than a decision based on an initial false promise.

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10. Thus, having regard to the facts and circumstances and the statement of the informant, and also the prolonged period for which the relationship continued, it cannot be said that the prosecutrix had given her consent for the sexual relationship with the petitioner under the misconception of fact, so as to hold him of having committed rape within the meaning of Section 69 BNS.
11. In the facts of the given case, the informant being a married woman, entered into the relationship with the accused, being fully aware of the consequences that would follow. So, in the given case no force, coercion or intimidation appears to be used on part of the petitioner, against the informant.
12. Considering the facts and circumstances of the case and the fact that no apprehension is shown on part of the prosecution that the accused would flee from justice or commit a similar offence, if released on bail, in the event of his arrest or surrender in the court concerned within four weeks from the date of communication of this order, let the petitioner, namely Vishal Kumar, S/o Vinod Rai be released on furnishing a bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned court concerned subject to following conditions:
- The petitioner shall co-operate with the investigating agency as well as in trial, as and when required.
 - The petitioner shall not commit an offence in future.
 - The petitioner shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case.
 - The petitioner shall not tamper with the evidence-witness in any manner.

sd/-

**[Shweta Kumari Singh]
Principal District & Sessions Judge,
Muzaffarpur.
21.05.2026**