

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22722 of 2017

Arising Out of PS.Case No. -229 Year- 2014 Thana -AURANGABAD TOWN District-
AURANGABAD

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1. Manoj Kumar @ Manoj Kumar Gupta @ Manoj Prasad Gupta S/o Shri Krishna Prasad @ Krishna sah Prasad R/o Village Karpi, P.S. Karpi, District Arwal.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Opposite Party/s : Mr. Sri Madhuranand Jha

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 28-06-2017 Heard learned counsel for the petitioner and learned counsel appearing for the State.

The petitioner apprehends his arrest in Aurangabad (Town) P.S. Case No. 229 of 2014 registered under Sections-341, 323, 354, 354B, 506, 509/34 of the Indian Penal Code and later on, Sections-376G,504, 506, 120B of the Indian Penal Code and Sections- 4, 8, 10 & 14(1) of POCSO Act were also added.

Earlier prayer for anticipatory bail of the petitioner was rejected by this court vide order dated 22-02-2017 passed analogously in Cr. Misc. No. 6100 of 2017 along with Cr. Misc. No. 3115 of 2017.

Counsel for the petitioner has submitted that in the



earlier order, inadvertently, it has been mentioned that the victim girl has levelled specific allegation against this petitioner in her statement recorded under Section-161 and Section-164 of the Cr.P.C. Counsel for the petitioner has further submitted that one of the co-accused namely, Rakesh Sao @ Rakesh Kumar whose name was not disclosed by the victim girl in the statement recorded u/S 164 of the Cr. P.C. has already been granted privilege of anticipatory bail by a coordinate bench of this court vide order dated 24-04-2017 passed in Cr. Misc. No. 5666 of 2017.

Counsel for the opposite party No. 2 has submitted that the victim girl in her statement recorded in paragraph-36 of the C.d. and other witnesses in paragraphs-34 and 35 of the C.D. have taken the name of this petitioner levelling specific allegation against him. Counsel for opposite party No. 2 has further submitted that the statement of victim girl was recorded on 22-09-2014 u/S 164 of the Cr.P.C. after about one month of recording of her statement u/S 161 of the Cr. P.C. before the police. In that statement, she has not taken the name of this petitioner.

This court in the earlier order dated 22-02-2017, has mentioned that during investigation, the victim in her statement under Section-161 of the Cr.P.C. as mentioned in para 36 of the



C.D. and other witnesses in paras 34, 35 have levelled specific allegation against the petitioner of their involvement along with two boys as named in the written report in preparing video of the victim girl. The victim girl however in her statement u/S 164 of the Cr.P.C. has not taken name of this petitioner which has been recorded after about one month of her statement recorded u/S 161 of the Cr.P.C.

In such circumstance, this court is not persuaded to reconsider the prayer of anticipatory bail of the petitioner merely on the ground that the victim girl has not taken his name in her statement recorded u/S 164 of the Cr.P.C.

Accordingly, the instant petition for grant of anticipatory bail of the petitioner on aforesaid ground is rejected.

(Sanjay Priya, J)

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