

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.63348 of 2018

Arising Out of PS. Case No.-56 Year-2018 Thana- BAUSI District- Purnia
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Akshay Kumar @ Akshay Kumar Yadav @ Akhilesh Yadav @ Akhileh
Kumar Yadav S/o Late Amaul Yadav, Resident of Village- Gwalgaon, P.S.
Baisi, District- Purnea.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Mukesh Kumar Jha, Advocate.
For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

4 21-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 323, 341, 504, 376/34 of the Indian Penal
Code and Section 4 of Prevention of Children from Sexual Offence
Act (POCSO Act) registered in connection with Baisi P.S. Case No.
56 of 2018.

3. It is submitted that the petitioner has been falsely
implicated as evident from the medical report, according to
which there was no evidence of any sexual assault, and the age of
the so-called victim was found to be 16-17 years. It is therefore
submitted that giving the benefit of two years remission on either
side in the matter of age, the girl is major and as such the
provisions of POCSO Act are not attracted.



4. Learned APP on the other hand submits that there is specific accusation that the petitioner committed rape upon the informant on the point of knife. The medical report in so far as concerns the finding in absence of evidence of sexual assault cannot be relied upon as the medical examination itself has been conducted after almost ten days of the occurrence. On the other hand, the seizure of the informant's clothing as appearing at column-6 of seizure list recorded in paragraph-4 of the case diary discloses adequate material to corroborate the allegation against the petitioner.

5. Having regard to the nature of accusations, and the gravity of the offence alleged, this Court is not inclined to grant the privilege of anticipatory bail to the petitioner. The anticipatory bail petition stands dismissed.

(Vikash Jain, J)

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