

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64022 of 2019

Arising Out of PS. Case No.-111 Year-2019 Thana- DHAKA District- East Champaran

Zakullah @ Zakaulah @ Zakallah @ Abdul Rahman, Son of Zameer @
Zameer Ahamad Resident of Village- Bahlolpur, P.S.- Dhaka, District- East
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Asif Kalim- Advocate

For the Opposite Party/s : Mr. Choubey Jawahar- A.P.P.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

3 15-06-2020 Heard learned counsel appearing for the petitioner as
well as learned Additional Public Prosecutor appearing for the
State through video conferencing.

Petitioner apprehends his arrest in connection with
Dhaka P. S. Case No.111 of 2019 in a case registered under
Section 376 of the I.P.C. and Section 4 of the POCSO Act.

The victim in her statement recorded under Section
164 of the Cr.P.C. specifically stated that she was raped by the
petitioner. However, learned counsel for the petitioner submits
that victim was the consenting party, which is evident from
perusal of Para-5 of the case diary, in which the statement of one
Jamil Akhtar has been recorded. Learned counsel for the
petitioner further submits that the aforesaid Jamil Akhtar



specifically stated that he caught the petitioner and victim in compromising position and after that victim requested to him not to disclose the aforesaid fact to her well-wishers as well as her family members.

Learned counsel for the petitioner further submits that as a matter of fact, petitioner and victim are of tender age and they were in love. He further submits that medical report of victim does not support the allegation of rape.

Since the victim was minor at the time of alleged occurrence, therefore, in my view, the consent of victim has got no value and, therefore, taking note of the aforesaid facts and circumstances of the case as well as submissions of the parties, I am not inclined to extend the privilege of anticipatory bail to the petitioner and, accordingly, his prayer for anticipatory bail stands rejected.

However, petitioner is directed to surrender before the Court below within six weeks from the date of receipt/production of a copy of this order and if the petitioner surrenders and seeks regular bail within the above stated period of six weeks, the learned Court below shall pass appropriate order on regular bail of the petitioner on the day of his surrender and this order shall not cause any prejudice to the concerned



Court at the time of consideration of regular bail of the
petitioner.

(Hemant Kumar Srivastava, J)

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