

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83014 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- MAHILA P.S. District- Araria

Md. Rizwan Aalam @ Rizwan @ Md. Rizwan, Son of Md. Kayyum Aalam,
Resident of Village - Haldia Bokra, P.O. and P.S.- Simraha, Distt - Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Singh, Advocate

For the Opposite Party/s : Mr.Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-03-2020 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking anticipatory
bail in connection with Mahila P.S. Case No. 02 of 2019
registered for the offences punishable under Sections 341, 323,
504, 506, 376/34 of the Indian Penal Code and Section 3/4
POCSO Act.

Learned counsel for the petitioner submits that
although as per the allegation the victim girl was aged about 14
years when she was subjected to rape by this petitioner on the
point of knife but according to him it is a case of false
implication as the petitioner and his family has always insisted
for DNA test of the child who has now taken birth and even
before the birth of the child the petitioner had submitted before



the Panchayat that a DNA test of the victim girl be conducted but his request for the DNA test has not been accepted, therefore, the petitioner is facing a false prosecution. Learned counsel has further submitted that the age of the victim girl has been assessed between 18-19 years.

On the other hand, learned A.P.P. for the State has submitted that admittedly the victim girl was aged about 14 years and in course of which she conceived and has now given birth to a baby. It is submitted that the victim girl has narrated her story in the F.I.R. as well as in her statement under Section 164 Cr.P.C. Learned A.P.P. submits that the DNA test may be relevant in course of investigation and in case the petitioner gets benefit out of that he may avail such benefit at appropriate stage but this is not the stage where the petitioner may claim privilege of anticipatory bail.

In the given facts and circumstances of the case, considering the statement of the victim girl in the F.I.R. as well as in her statement under Section 164 Cr.P.C. and the fact that she has given birth to a baby whom she allegedly conceived during the period she was being subjected to rape allegedly by this petitioner, I am not inclined to grant anticipatory bail to the petitioner.



Prayer for anticipatory bail of the petitioner is, thus,
refused.

In case the petitioner surrenders and prays for regular
bail in the court below within a period of six weeks from today,
his prayer for regular bail shall be considered on its own merit
without being prejudiced by this order.

(Rajeev Ranjan Prasad, J)

vats/-

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