

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8202 of 2020

Arising Out of PS. Case No.-288 Year-2019 Thana- DIDARGANJ District- Patna

SUNNY KUMAR S/o Pappu Kumar R/o village- Nizampur, P.S.- Didarganj,
District- Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar-II, Advocate Mr. Avinash Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 05-10-2021 Heard Mr. Manish Kumar-II, learned Advocate
for the petitioner and Mr. Uday Pratap Singh, learned
APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Special Case No. 200 of 2019, arising out of Didarganj P.S. Case No. 288 of 2019 dated 14.10.2019 instituted for the offences under Sections 448, 341, 323, 354B, 504 and 34 of the Indian Penal Code, Sections 8 & 12 of the POCSO Act.

The accusation in the FIR is that while the petitioner tried to outrage the modesty of the daughter of the informant, he was caught. Later, he was made to come out of the house of the informant at the instance of his father. When the brother of the victim went to complain against such an activity of the petitioner, he



was assaulted by his family members.

Learned counsel for the petitioner has submitted that from the very narration in the FIR, it would appear to be a case of dispute between the neighbours. Shortly before the occurrence, there was some dispute with respect to dirty water being thrown by either of the parties in the compound of the other side. This had led to a minor scuffle between the neighbours. Only in order to add seriousness to the offence, such an accusation has been levelled.

Though it has been urged on behalf of the petitioner that in the second/sequel action by the accused persons, the brother of the victim was assaulted but there is no injury report on record. The 164 Cr.P.C. statement of the victim girl has also not been recorded. The victim is shortly to get married. The learned counsel for the petitioner, on the afore-noted facts, submits that these presuppose that she is a major and therefore, the provision of the POCSO Act will not be applicable to the facts of this case.

However, on seeing the case diary, it appears that the brother of the petitioner was arrested and according to the learned counsel for the petitioner he has been released on bail.

Considering this aspect of the matter namely



parity and the accusation, I am not inclined to grant anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail is rejected.

However, if the petitioner surrenders before the court below and seeks bail, it shall be taken into account that one of the co-accused persons of this case has been granted bail and that there is a dispute between neighbours and therefore there could be a possibility of false implication and pass orders in accordance with law without being prejudiced by the fact that the present petition on his behalf has not been entertained.

(Ashutosh Kumar, J)

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