

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20305 of 2020**

Arising Out of PS. Case No.-77 Year-2018 Thana- ARARIA District- Araria

MD. CHUNNA Son of Late Abdul Kayum Resident of Village - Baturbari
Marar Tola, Ward No.- 13, P.S.- Tarabari, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Aditya Narayan Singh.1, APP
For the Informant	:	Mr. Rama Kant Sharma, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 09-08-2021 Heard Mr. Rajeev Kumar Singh, learned

Advocate for the petitioner and Mr. Rama Kant Sharma,

learned Senior Advocate for the informant. The State is

represented by Mr. Aditya Narayan Singh-1, learned

APP.

The petitioner seeks bail in anticipation of his

arrest in connection with Araria (Mahila) P.S. Case No.

77 of 2018 dated 30.07.2018 instituted for the offences

under Sections 376/34 of the Indian Penal Code and

under Sections 3/4 of the POCSO Act.

The accusation against the petitioner is of



having subjected the daughter of the informant to sexual intercourse and making her pregnant. An attempt was also made to abort her.

Learned counsel for the petitioner has submitted that an absolutely false case has been lodged against him. The age of the victim after medical examination was assessed to be above 18 years and therefore, the accusation with respect to the POCSO Act is not applicable. He further submits that the relationship between the petitioner and the so-called victim is consensual.

Mr. Singh, learned counsel for the petitioner has also drawn the attention of this Court to the fact that even during the course of investigation, it was found that the victim was not 14 years of age as was projected to be by the informant.

As opposed to the aforesaid contention, learned Senior Advocate for the informant has submitted that the victim has delivered a child as well. The victim is a



physically challenged woman. He has further argued that with this background fact, the defence of the petitioner is rendered completely nugatory. He further submits that such consent is no consent in the eyes of law.

Regard being had to the nature of accusation against the petitioner, I am not inclined to grant anticipatory bail to the him.

Accordingly, the same is rejected.

(Ashutosh Kumar, J)

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