

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 26166 of 2020

Arising Out of PS. Case No.-480 Year-2019 Thana- DHAKA District- East Champaran

SHAMIM ALAM @ SAMAMDIM S/o Late Gaffar Resident of Village-
Khairwa, P.S.- Dhaka, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr Sangeet Deokuliar, Advocate
For the State	:	Mr Tapeswar Sharma, APP
For the Informant	:	Mr Ajay Kr Singh, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

4 **25-01-2021** Heard learned counsel for the petitioner, informant
and the learned APP for the State.

Petitioner apprehends arrest in connection with
Dhaka Police Station (for brevity, *PS*) Case No 480 of 2019
instituted for the offence punishable under Sections 448, 341,
323, 354, 354A, 354B, 379, 504, 506/34 of Indian Penal Code
and Sections 12 & 42 of Protection of Children from Sexual
Offences (for brevity, *POCSO*) Act.

It is alleged that the informant was dragged out of her
shop and beaten and some of the co-accused have allegedly
torn her clothes.

Petitioner's counsel submits that there is subsisting
agnate dispute between the parties. Father of victim is own



cousin of the petitioner. The petitioner is aged about 60 years. The other two co-accused have already been allowed anticipatory bail by the Court below itself.

Case diary had earlier been called for. Parties, on going through the same, have asserted that there is an injury on the victim but the same is a minor swelling and that also has been opined as simple in nature.

The learned APP as well as the learned counsel for the informant submit that since the victim has made statements under Section 164 of Criminal Procedure Code (for brevity, *Cr P C*) supporting the allegations, this is not a fit case for grant of anticipatory bail.

To such submissions, petitioner's counsel submits that there is variance in the statement of the victim recorded under Section 164 of *Cr P C* wherein she has stated before the Court that she was called by the petitioner. In the First Information Report, it is stated that she was dragged from the shop. There is no criminal antecedent of the petitioner.

In the facts and circumstances of the case, prayer of petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the Court below, within four (04) weeks from today, he shall be



released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, POCSO Act, East Champaran, Motihari in Dhaka PS Case No 480 of 2019 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

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