

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5009 of 2021

Arising Out of PS. Case No.-271 Year-2020 Thana- PUPRI District- Sitamarhi

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KRISHNA KUMAR S/o Amiri Sahni Resident of Village- Bhitha Dharma,
P.S.- Pupri, Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma- Sr. Advocate
For the Opposite Party/s : Ms. Pushpa Sinha-1- A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 06-08-2021 Heard Mr. Yogesh Chandra Verma, the learned Senior

Advocate for the petitioner and Ms. Pushpa Sinha-1, the learned

APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Pupri P. S. Case No.271 of 2020, instituted for the offences under Section 376 of the Indian Penal Code and Section 4/6 of the POCSO Act.

The accusation against the petitioner is of having subjected the prosecutrix to sexual intercourse and having continued with that kind of relationship for several months.

The learned Senior Advocate for the petitioner has submitted that the accusation is false and that the narration in the F.I.R. indicates that the relationship between the victim and the petitioner was consensual. He further submits that victim has



wrongly disclosed her age to be 17 years. In the medical examination, her age has been assessed to be between 18-19 years. She is a student of B.C.A. It has lastly been submitted that there has been a delay of about five days in lodging the F.I.R.

It appears from the F.I.R. that in the first instance, the victim was called by the petitioner on telephone, when she was subjected to sexual intercourse. This continued for quite sometime as the petitioner had allegedly promised to marry the victim. This is no consent in the eyes of law. This clearly makes out a case of rape on the pretext of marry the victim.

Apart from this, the delay pointed out by the learned Advocate for the petitioner is not at all relevant as the act of sexual assault continued for several months. So far as the application of Sections 4 and 6 of the POCSO Act is concerned, that will have to be seen at the appropriate stage.

This Court therefore is not inclined to grant anticipatory bail to the petitioner.

The prayer for anticipatory bail of the petitioner is rejected.

However, if the petitioner surrenders before the Court below and seeks bail, the Court below shall consider the case on



its own merits, without being prejudiced by the fact that the present anticipatory bail application has not been entertained by this Court.

(Ashutosh Kumar, J)

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