

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26873 of 2022

Arising Out of PS. Case No.-78 Year-2021 Thana- MAHILA PS District- East Champaran

IRSHAD ALAM SON OF OSIR ANSARI R/O- BAGAHA, P.S.-
HARSIDHI, DISTRICT- EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 19-12-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner apprehends his arrest in connection with Motihari Mahila P.S. Case No.78 of 2021, registered for the offences punishable under Sections 376(D), 448, 341, 504 and 34 of the Indian Penal Code as well as Sections 4 and 6 of the POCSO Act.

The petitioner alongwith co-accused, Mustufa Alam are said to have committed rape with the minor daughter of the the informant.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner has got no criminal antecedent as stated in paragraph-3 of the bail application. It is further submitted that the statement of the victim was not recorded under Section



164 Cr.P.C. The occurrence took place on 12.12.2021 and the FIR was lodged on 27.12.2021 after delay of 15 days without giving any explanation which creates a serious doubt on the veracity of the prosecution case. It is also submitted that the medical report does not support the prosecution case. It is further submitted that no sign of sexual assault or rape was found.

Learned APP for the State opposed the prayer for anticipatory bail of the petitioner.

Considering the facts that statement of the victim was nor recorded under Section 164 Cr.P.C. and medical report does not support the prosecution case, let petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs.25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge-cum-Special Judge, POCSO, Motihari, East Champaran in connection with Motihari Mahila P.S. Case No.78 of 2021, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjani Kumar Sharan, J)

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