

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3583 of 2023

Arising Out of PS. Case No.-42 Year-2018 Thana- MAHILA PS District- Katihar

NOOR ALAM @ MAULWI MD. NOOR ALAM Son of Late Mohim @
MOJIBUR R/V - Abadpur, P.S - Abadpur, Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Musowir, Advocate

For the Opposite Party/s : Mr. Mohammad Sufyan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 17-07-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 376, 225
and 120(B) of the Indian Penal Code as well as Section 27 of
the POCSO Act.

3. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent.

4. The informant alleges that petitioner had come to
perform some rituals at her home and after all the family
members went to sleep the petitioner from 12:00 a.m. to 03:00
a.m. committed rape with her.

5. Learned counsel for the petitioner submits that
petitioner has been falsely implicated in the present case. It is
further submitted that from perusal of the allegation as alleged



in the FIR, it would manifest that the date of occurrence is 11.12.2016 and a complaint petition came to be filed on 04.06.2018 and thereafter the FIR was instituted on 14.10.2018. Learned counsel further submits that if what has been alleged in the FIR is true then nothing prevented the informant from instituting a case promptly and even if the case was not being taken by the police then in that event a complaint petition ought to have been instituted promptly but the same was not done which casts an aspersion on the case of the prosecution.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that notices were issued to the informant but it appears that the report has not come.

7. The Court is not willing to wait for the informant for the reason that an FIR came to be instituted and it is the duty of the State to contest the case on behalf of the informant and when the learned counsel for the petitioner has been able to make out a case casting an aspersion on the case of the prosecution as such the Court is inclined to entertain the anticipatory bail application more so when the medical report (Annexure-2) does not corroborate the allegation as alleged in the FIR.



8. Considering the submissions made by the learned counsel for the petitioner, the 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 released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Mahila P.S. Case No. 42 of 2018, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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