

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8390 of 2023

Arising Out of PS. Case No.-25 Year-2022 Thana- BIHRA District- Saharsa

MOHAMMAD ROJIT @ CHHOTU S/O MD. JAMAL Resident of village-
Bijalpur, P.S.- Bihra, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. SAVITRI DEVI W/O SRI DUKHI RAM Resident of village- Bijalpur, Ward
No.- 2, P.S.- Bihra, District- Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarnath Jha

For the Opposite Party/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 18-04-2023 Heard both sides.

The petitioner apprehends his arrest in connection with Bihra P.S. Case No.25 of 2022, corresponding to Special (POCSO) Case No.31 of 2022, registered for the offences punishable under Sections 328, 343, 366(A), 376(g), 504, 34 of the Indian Penal Code, Sections 4, 6, 8 of the POCSO Act as well as Sections 3(1) (u)(r) of the S.C./S.T. Act.

Accusation is of committing rape upon the victim girl.

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 petition. It is further submitted that charge sheet has been submitted under Sections 328, 341, 323,



504, 506, 363, 366-A, 376(DA)/34 of the Indian Penal Code, Sections 3(1)(r)(s)(wi), 3(2)(va), 3(2)(v) of the S.C./S.T. Act and Sections 4 and 6 of POCSO Act.

Learned APP for the State opposed the prayer for grant of anticipatory bail to the petitioner by submitting that the anticipatory bail is not maintainable.

Section 438(4) of the Code of Criminal Procedure is reproduced hereinbelow:

“[(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code (45 of 1860).]”

In view of the facts aforesaid, the anticipatory bail application is not maintainable. Accordingly, this anticipatory bail application is dismissed as not maintainable.

(Anjani Kumar Sharan, J)

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