

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16011 of 2023

Arising Out of PS. Case No.-267 Year-2022 Thana- BARARI District- Katihar

MD. TANWEER @ TANVEER ALAM Son of Gul Mohammad R/v- Baisa
Govindpur, P.S.- Barari (Semapur), District- Katihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar
For the Opposite Party/s	:	Mr. Akhileshwar Dayal
	:	Mr. Sanjeev Kumar Singh
	:	Mr. Neha Rani

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 17-05-2023 Heard learned counsel for the petitioner and learned
APP for the State assisted by learned counsel for the informant.

The petitioner is apprehending his arrest in a case registered for the offence punishable under Section 376 of the Indian Penal Code and Section 04 of the POCSO Act pending in the learned court below.

When the informant was sitting in Patua field situated in back side of her house to answer her natural call then Tanveer Alam forcibly caught her coming from the backside and as soon as she tried to cry. Tanveer Alam inserted cloth inside her mouth and threw away her on the ground and committed rape forcibly with her by taking off her pajama. Thereafter, she went to her house weeping and narrated the entire occurrence to her mother and brother. Thereafter, her elder brother went to the house of Tanveer Alam and narrated the entire story to his mother who told him to solve this matter by sitting together.



Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He further submits that the age of the victim is found by the medical board is 18 to 19 years. He submits that no POCSO Act is applicable against the petitioner as the victim is a major. He further submits that the doctor who examined the victim did not found any marks of injury on her body or his/her private part and there was no any sign of rape rather the doctor found that she was gone for intercourse. He submits that petitioner has got no criminal antecedent as stated in para-3 of the bail application.

Per contra, learned APP for the State along with learned counsel for the informant vehemently opposing the bail application and submits that the statement of the victim was recorded under Section 164 Cr.P.C. in which she supported the prosecution case. Hence, he does not deserve anticipatory bail.

Considering the statement of the victim recorded under Section 164 Cr.P.C., I am not inclined to enlarge the petitioner on bail in connection with Barari (Semapur) P.S. Case No.267/2022. Accordingly, his prayer for anticipatory bail is hereby rejected.

(Anjani Kumar Sharan, J)

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