

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.17840 of 2023**

Arising Out of PS. Case No.-415 Year-2022 Thana- KHAIRA District- Saran

Bhim Kumar Son Of Late Ashok Kumar R/O Village- Madhopur, P.S.-  
Marhowrah, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Anant Kumar Mishra

For the Opposite Party/s : Mr. Braj Kishore Pd.(App)

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

3      24-06-2023                      Heard learned counsel for the petitioner and  
learned A.P.P. for the State.

The petitioner apprehends his arrest in Khaira P.S.  
Case No. 415 of 2022 registered for the offences punishable  
under Sections 376(A)(D), 34 of the Indian Penal Code and  
Section 4/6 of the POCSO Act, pending in the Court of learned  
Exclusive Special Judge (POCSO), Saran at Chapra.

As per the prosecution case, the petitioner is said to  
have committed sexual assault upon the person of the  
informant/victim.

Learned counsel for the petitioner submits that the  
petitioner is innocent and has falsely been implicated in this  
case. The allegation levelled against the petitioner is not  
specific rather general and omnibus in nature. He submits that



it has been alleged by the informant that she went to Yagya with her family members including her sister, mother, cousin etc but nobody had noticed her absence even when they were returning together, which creates doubt, disbelieve and the same does not appear to be true. The petitioner has got no criminal antecedent as mentioned in para-3 of the bail application.

As per Section 438(4) of the Cr.P.C., this anticipatory bail is not maintainable. For ready reference Section 438(4) of the Cr.P.C., is quoted 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 376-AB or Section 376-DA or Section 376-DB of the Indian Penal Code (45 of 1860).] “*

Considering the facts and circumstances of case and the provisions as quoted hereinabove, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

**(Anjani Kumar Sharan, J)**

anand/-

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