

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33528 of 2023

In
CRIMINAL MISCELLANEOUS No.64929 of 2022

Arising Out of PS. Case No.-78 Year-2022 Thana- SHYAMPUR BHATHA District- Sheohar

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SADDAM MANSOORI @ SADDAM HUSSAIN SON OF DIL
MOHAMMAD MANSOORI @ DIL MOHAMMAD RESIDENT OF
VILLAGE- NAYAGAON, PS- SHYAMPUR BHATHA, DISTT-
SHEOHAR, BIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Ms. Shashi Priya, Advocate
For the Opposite Party/s	:	Mr.Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-06-2023 Heard Mrs. Nivedita Nirvikar, learned Senior

Counsel for the petitioner and the State.

The present petition has been filed for modification of the order dated 11.04.2023 passed in Cr. Misc. No. 64929 of 2022 by which taking into account the fact that the petitioner is an accused under Sections 363, 366(A) and 34 of the I.P.C. and the girl is expecting child as they tied nuptial knots, this Court granted the privilege of anticipatory bail to him.

Now a modification petition vide Cr. Misc No. 33528 of 2023 has been filed stating that inadvertently Section 4/6 of the POCSO Act as also Section 9/10 of the Prohibition of Child Marriage Act were missed out while filing the anticipatory bail



petition and accordingly, the order dated 11.04.2023 be modified.

Learned Senior Counsel took this Court to para 4 and 6 of the modification petition which read as follows:

- 4. That it is further submitted that when the petitioner moved before the court below for furnishing of the bail bond, the anticipatory bail was not granted for the reason that in the order dated 11.04.2023 passed in Cr. Misc no. 64929 of 2022, the offences U/s 04/06 of the POCSO Act and Section 9/10 of the Prohibition of Child Marriage Act has not been mentioned.*
- *6. That although the case was instituted U/s 363, 366-A and 34 of the Indian Penal Code but the charge sheet dated 05.05.2022 was submitted U/s 363, 366-A and 34 of the Indian Penal Code, U/s 04/06 of the POCSO Act and Section 9/10 of the Prohibition of Child Marriage Act, while drafting the application for bail, it could not transpire that the charge sheet has been filed U/s 04/06 of the POCSO Act and Section 9/10 of the Prohibition of Child Marriage Act also, no case Diary was called for and the client also did not mention inadvertently about the aforesaid addition of charges. Thus if the petitioner is not granted bail in the aforementioned matter, the same would cause irreparable loss. and injury to the petitioner without any fault of his.*



A query was made by the Court to the Senior Counsel as to when was the chargesheet submitted under the POCSO Act to which it was replied that the same was done on 05.05.2020.

A perusal of the earlier petition, Cr. Misc. No. 64929 of 2022 shows that the same was filed on 24.11.2022 i.e. more than six months after the chargesheet under POCSO Act was submitted against the petitioner.

The matter was taken up on 11.04.2023. Again the same was taken up almost one year after the chargesheet was submitted but neither any supplementary affidavit was on record nor it was pointed out at the time of hearing which resulted into passing of the order.

The aforesaid facts clearly show that the petitioner concealed the facts to procure anticipatory bail.

Considering the aforesaid fact that the chargesheet has also been submitted under Section 4/6 of the POCSO Act as also Section 9/10 of the Prohibition of Child Marriage Act, a fact the court was unaware of, this Court is not inclined to extend him the privilege of anticipatory bail and/or modify the earlier order dated 11.04.2023 and accordingly, the present modification petition vide Cr. Misc. No. 33528 of 2022 stands dismissed.

If the petitioner surrenders within a period of four



weeks from today, the Court shall take into account the factors that was incorporated in the anticipatory bail order as also the statement made by the victim girl under Section 164 of the Cr.P.C. while deciding the bail application.

The petition stands dismissed with the aforesaid observation.

(Rajiv Roy, J)

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