

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30598 of 2023

Arising Out of PS. Case No.-1 Year-2020 Thana- MAHILA P.S. District- Vaishali

Vivek Kumar Son Of Sri Suraj Singh Resident Of Village- Raja Pakar, Ps-
Raja Pakar, Distt- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 27-07-2023 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in connection
with Mahila P.S. Case No. 01 of 2020 registered for the offences
punishable under Section 376 (ii) (i) of the Indian Penal Code
read with Section 4 of the POCSO Act.

3. Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent and the informant
alleges that petitioner in her absence came and committed
wrong with her minor daughter aged about six years and her
minor son, aged about eight years, disclosed about the
occurrence.

4. Learned counsel for the petitioner submits that the
petitioner has been falsely implicated in the present case, it is



next submitted that petitioner and informant are tenants and there was a dispute between them, it is further submitted that from perusal of the allegations as alleged in the FIR it would manifest that the informant has alleged that on coming to know that the petitioner had committed wrong with her minor daughter, she went in petitioner's room upstairs and confronted him when he pushed her and fled. Learned counsel further submits that had the petitioner committed any occurrence of the nature as alleged in the FIR then whether he would have been present in his room, the fact that petitioner was present in his room in itself demonstrates that no such occurrence, as alleged, had taken place, it is further submitted that even her minor daughter was examined by a lady doctor and from perusal of Annexure-2 it would manifest that everything was found normal and there was no sign of any sexual assault.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that the allegation *prima-facie* appears to be heinous, it is next submitted that no mother would file such a false and frivolous case bringing disrepute to her own minor daughter, it is further submitted that it may not be a case of rape but then the petitioner might have committed some wrong with the minor which at present cannot



be ascertained with certainty, it is also submitted that it was the minor son of the informant who disclosed to her that petitioner had taken them upstairs where he committed wrong. Learned A.P.P. thus submits that the minor may not understand what was committed but then after seeing the act of the petitioner even the minor felt uneasy, it is also submitted that the informant has very clearly alleged that when she came back from hospital, she saw the child in a pitiable condition and was also suffering from fever and was frightened which amply demonstrates that some occurrence might have taken place.

6. Considering the submissions made by the learned A.P.P. for the State, the Court is not inclined to extend the privilege of anticipatory bail to the petitioner. His prayer for anticipatory bail is thus rejected.

(Satyavrat Verma, J)

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