

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.34841 of 2023**

Arising Out of PS. Case No.-57 Year-2022 Thana- MAHILA P.S. District- Muzaffarpur

Awadhesh Kumar Son Of Raghuvir Sah Resident Of Village- Mahnatada, Ps-  
Motipur, Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ravi Ranjan

For the Opposite Party/s : Mr. Jagdhar Prasad

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

2      25-07-2023                      Heard learned counsel for the petitioner and  
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in Muzaffarpur Mahila P.S. Case No. 57 of 2022 registered for the offences punishable under Section 376 of the Indian Penal Code and Section 4/6 of the POCSO Act, pending in the Court of learned Additional Sessions Judge VIIth cum Special Judge POCSO Act, Muzaffarpur.

3. As per the prosecution case, the petitioner is said to have committed rape upon the victim.

4. 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



as a matter of fact this petitioner and the informant out of her own sweet will has gone outside and neither the informant nor her family members were ready to lodge a case and in fact Rijwan and Taiyab are ward members, who put pressure upon her to lodge a case, and they compelled the girl to give her statement and she has been ravished in the Panchayati and said Rijwan made the said statement viral and she was forced to lodge a case. The petitioner has got no criminal antecedent as mentioned in para-3 of the bail application.

5. Learned APP for the State opposes the prayer for anticipatory bail and submits that the Court below has rejected the anticipatory bail in view of Section 438 of the Cr.P.C, which deals with the grant of bail in case of person apprehending arrest as sub-section 4 clearly bars the maintainability of a petition relating to the offences punishable under Section 376(3), 376(AB), 376(DA) and 376(DB) of the IPC.

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

However, if the petitioner surrenders before the



learned Court below within six weeks from today and seek regular bail, the learned Court below would pass order on the same day in accordance with law without being prejudiced by this order, in view of the statement of the victim under Section 164 of the Cr.P.C..

**(Anjani Kumar Sharan, J)**

anand/-

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