IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38017 of 2023

Arising Out of PS. Case No.-281 Year-2022 Thana- RANIGANJ District- Araria

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Md Mumtaz S/O Md. Wasil @ Wasil R/O Village- Majhuwa Panchayat Chhatiauna, Ps.Bousi Basetti, Dist. Araria

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

ORAL ORDER

2 03-08-2023 1. This application is filed under Section 438 of the Code of Criminal Procedure, 1973 with the prayer that the applicant be enlarged on anticipatory bail in the event of his arrest in connection with Raniganj (R.S.O.P.) P.S. Case No. 281 of 2022 dated 17.08.2022 registered for the alleged offences punishable under Section 376 of the I.P.C. and Sections 4 and 6 of the POCSO Act.

2. Heard Mr. Mukesh Kumar Rana, learned advocate for the applicant and Mr. Arun Kumar, learned APP for respondent-State.

3. Learned advocate for the applicant, at the outset submitted that for the alleged incident which had taken place on 09.08.2022, the F.I.R. is lodged on 17.08.2022. Thus, there is a

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delay in lodging the F.I.R., wherein, the applicant has been falsely implicated.

4. It is also submitted by learned counsel that the age of the applicant is 22 years and the applicant has been falsely implicated in the incident in question. He, therefore, urged that this application being allowed. On the other hand, learned APP has opposed this application.

5. Learned counsel for the State has contended that as per F.I.R. the age of the victim girl is 12 years and she has specifically alleged and narrated the incident and alleged that the present applicant has committed the offence punishable under Section 376 of the I.P.C.

6. Learned counsel for the State, therefore, urged that where specific allegations with regard to the commission of offence punishable under Section 376 of the I.P.C. are levelled against the applicant, this Court may not exercise discretion in favour of him.

7. I have considered the submissions canvassed by the learned counsel representing the parties. I have also perused the material placed on record. If the F.I.R. in question is carefully seen, it is revealed that the age of the victim is 12 years and she has specifically narrated about the incident in question and the

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manner in which the same had taken place. Specific allegations of a commission of offence punishable under Section 376 of I.P.C. are levelled against the applicant. Thus, prosecution as *prima facie* made out in the case against the present applicant. Even the provisions contained in Section 4 read with Section 6 of POCSO Act are also *prima facie* attracted.

8. Thus, looking to the age of the victim and the manner in which the incident had taken place as well as considering the punishment prescribed for the alleged offences, I am not inclined to consider the case of the applicant.

9. Accordingly, this application is dismissed.

(Vipul M. Pancholi, J)

Sachin/-

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