

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44692 of 2023

Arising Out of PS. Case No.-498 Year-2022 Thana- NAANPUR District- Sitamarhi

Sushil Kumar @ Sushil Paswan @ Sushil Kumar Paswan Son of Umesh Paswan @ Ramesh Paswan, R/o Village- Banaul P.S.- Nanpur Dist- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anil Paswan Son of Late Ganga Paswan, R/o Village- Banaul Ps- Nanpur Dist- Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Adv.
For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 04-08-2023 Heard learned Counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 341, 342, 323, 354 of the Indian Penal Code read with Section 8 & 12 of POCSO Act.

3. As per the F.I.R., it transpires that the present case has been lodged as a complaint case and subsequently converted into F.I.R. after the order passed under Section 156(3) of Cr.P.C. with allegation to molest the minor daughter of informant.

4. Learned counsel for the petitioner submits that from the contents of F.I.R. it transpires that no offence is made



out against the petitioner. He also submits that as per the contents of F.I.R., the event is of 27.04.2022 but F.I.R. has been lodged on 06.11.2022. Learned counsel for the petitioner submits on merit that in the statement recorded under Section 164 of Cr.P.C. the alleged victim has not made any allegation against the petitioner.

5. Learned A.P.P. for the State opposes the prayer for bail and submits that this event is alleged to be taken place on 27.04.2022, the complaint has been filed on 19.05.2022 but after passing order under Section 156(3) of Cr.P.C. the present F.I.R. has been lodged on 06.11.2022, therefore, delay in filing the F.I.R. has been caused.

6. In the present facts and circumstances and the submissions made above and particularly from the perusal of the rejection order that there is no whisper anything about the Statement recorded under Section 164 of Cr.P.C., this Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Nanpur P.S. Case No.498 of 2022 to the satisfaction of learned Additional Sessions Judge VI-cum-Special Judge (POCSO Act), Sitamarhi.

7. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.



8. However, the learned Court below shall consider the prayer for regular bail of the petitioner, if the petitioner surrenders within a period of six weeks, upon going through the statement recorded under Section 164 of Cr.P.C. of the alleged victim, if there is no allegation against the petitioner then the learned Court below shall release the petitioner imposing condition to his satisfaction but in case it has been found that there is allegation made in the statement recorded under Section 164 of Cr.P.C. against the petitioner, then in that case, the bail application of petitioner is directed to be decided on its own merit.

9. With this observation and direction, the present Cr. Misc. Application stands disposed off.

(Dr. Anshuman, J.)

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