

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42955 of 2022

Arising Out of PS. Case No.-113 Year-2019 Thana- AMAUR District- Purnia

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ISMAIL@ MD. ISMAYAL S/o Shahid R/o village- Talbari, Kohbara, P.S.-
Amour, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Raj Kumar

For the Opposite Party/s : Mr.Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL ORDER

3 10-01-2023 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the office within one

month.

Heard the learned counsel for the petitioner and the
learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection
with Special (POCSO) Case No. 64 of 2019, arising out of
Amour P.S. Case No. 113 of 2019, registered for offence
punishable under sections 376/511 of the Indian Penal Code and
section 4 of the POCSO Act.

As per allegation, the petitioner committed rape with a
minor girl of three years of age, when she was playing in the
school. The petitioner is in relation to the family members of the



victim. After committing rape the petitioner fled away. The complainant, who is grandmother of the victim, had seen her grand daughter in naked condition and semen was found over her private part.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. He has submitted further that this case was lodged on the basis of complaint petition, which was lodged after eleven months of the alleged occurrence. The investigation was conducted. During investigation, no evidence emerged against the petitioner, as such, the investigating authority submitted final form against the petitioner. The cognizance was taken on the basis of protest petition. The learned counsel has also submitted that at the time of occurrence, the petitioner was not in the village.

On the other hand, the learned APP has opposed the prayer for bail and submitted that the petitioner himself, in *panchayati*, has admitted that he had committed rape upon the victim. The reason for delay in lodging the complaint petition is the process of conciliation between the parties.

In my view, it is not a fit case for anticipatory bail and accordingly, the same is rejected.



Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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