

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44721 of 2022

Arising Out of PS. Case No.-40 Year-2022 Thana- MIRGANJ District- Purnia

Ujjwal Kumar @ Ujjwal Kumar Bharti Son Of Mahadeo Mandal R/O-
Ladhwa (BAGHWA), P.S.- Mirganj, District- Purnea

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate
	:	Mr. Arun Kumar Mandal, Advocate
	:	Ms. Richa, Advocate
For the Opposite Party/s	:	Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-01-2023 Learned counsel for the petitioner is permitted to remove the defect (s), as pointed out by the office, if any, within a period of four weeks from today.

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

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 504, 506, 376 of IPC and Section 4 of POSCO Act.

The prosecution case, in short, is that the petitioner who is characterless and criminal nature whose bad intention was inclined towards 17 years old daughter, namely, Gayatri Kumari, of the informant. Informant stated that on 21.02.2022 in the evening, victim girl Gayatri Devi went to feed cattle at



cattle hut and when she was returning home at 7.00 P.M. and in the meantime, petitioner arrived at her cattle hut and taking benefit of loneliness and by force he committed rape upon her under threat of life and he also threatened her to kill her entire family members, if she disclosed to anyone.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. Further submits that from a bare perusal of the written fardbeyan of the informant, it would be evident that there is 17 days delay in lodging the complaint case, as date of offence is 21.02.2022 and complaint case has been instituted on 11.03.2022 without any explanation of delay. Further submits that the victim girl has medically been examined on 05.03.2022. Further submits that from a bare perusal of the medical report of the victim girl suggests that she is a major girl and thus no offence of POCSO Act is attracted against the petitioner. Further submits that so far as the statement of the victim girl under Section 164 Cr.P.C. is concerned, it is apparent that both fell in love and both indulged into physical relation with mutual consent in pretext of performing marriage. Further submits that the 1st supplementary affidavit reveals that both the parties have jointly compromised



on 16.08.2022 and they have filed a joint compromise petition before the learned court below wherein they have stated that the present case has been filed in haste and in suspicion and now they have compromised without any temptation, fear and inducement and friendly relation have established between them. Learned counsel for the petitioner has relied upon the judgment in the case of **P. Vijayan Vs. State of Kerala and Another** reported in (2010) 2 SCC 398, **Deepak Gulati Vs. State of Haryana** reported in (2013) 7 SCC 675 and **Pramod Suryabhan Pawar Vs. State of Maharashtra and Another**, reported in (2019) 9 SCC 608.

Learned A.P.P. for the State, on the other hand, has vehemently opposed the prayer for anticipatory bail of the petitioner and submits that the allegation against the petitioner is that he forcefully committed rape upon the victim under threat of life and he also threatened her to kill her entire family members if she disclosed to anyone. Further submits that the victim girl was recovered and her statement was recorded under Section 164 of the Cr. P.C. in which she has categorically stated that the petitioner has committed rape upon the victim in protest of performing marriage with the victim. Thereafter, the father of the petitioner asked the victim to withdraw the case against the



petitioner. Further submits that it transpires from the 164 Cr.P.C. statement of the victim that the petitioner has committed rape upon the victim and the medical examination of the victim was conducted on 05.03.2022 much after the date of occurrence (21.02.2022). Further submits that in view of the aforesaid, the petitioner does not deserve the privilege of anticipatory bail.

Considering the seriousness of allegation levelled against the petitioner, this Court is of the opinion that it is not a fit case for grant of privilege of anticipatory bail to the petitioner in connection with Mirganj P.S. Case No. 40 of 2022 pending in the court of learned Additional Sessions Judge-VII-cum -Special Court (POSCO) Purnea.

Prayer is refused.

(Rajesh Kumar Verma, J)

Nitesh/-

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