

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4154 of 2021**

Arising Out of PS. Case No.-213 Year-2021 Thana- RAJNAGAR District- Madhubani

MD. ANWARUL S/o MD. SHAKUR R/o VILLAGE-KHOER, P.S.-
RAJNAGAR, DISTRICT-MADHUBANI.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Jyoti Kumari Sanjay Ram Aged about, Resident of Village-Mangrauni North
Tola Ushrahi, P.S.-Rajnagar, District-Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ratanakar Jha,Advocate
For the Respondent/s : Mr.Sadanand Paswan,Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 09-02-2023 Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

Pursuant to the order dated 31.05.2022 notices were issued to the opposite party no. 2 and as per the office report, a '*Vakalatnama*' on her behalf was filed. However, on call no one appears.

The appeal is directed against the order dated 17.09.2021 passed in A.B.P. No. 964 of 2021 arising out of Rajnagar P.S. Case No. 213 of 2021 under Sections 376 and 420 of the Indian Penal Code and under Sections 3(1)(w)(1)3(ii)(v) of the Scheduled Caste Act and Schedule Tribe (Prevention of Atrocities) Act and under Section 4 of POCSO Act whereby and



whereunder the learned Additional Sessions Judge-VI-Cum-Special Judge (POCSO), Madhubani rejected the anticipatory bail filed by the appellant.

As per the prosecution story, the victim girl alleged that as she came outside her house to attend the call of nature, the accused persons took her away to his '*Mausi's*' house and on the pretext of marriage made physical relationship. Two days later, he went back from his promise of marriage and left her at her home. Accordingly, the FIR was lodged.

Learned counsel for the appellant has taken this Court to Annexure 2, the statement of the girl under Section 164 of the Cr.P.C. where she has narrated everything minus any physical relationship with her *inasmuch* as there is nothing on record in her statement that she was sexually exploited/raped.

Learned Spl. P.P. for the State although opposes the prayer of the appellant concede that the sexual exploitation part is missing in her deposition under Section 164 of the Cr.P.C.

Considering all the aforesaid facts including that he do not have criminal antecedent, this Court is inclined to extend him privilege of anticipatory bail.

The impugned order dated 17.09.2021 passed by learned Additional Sessions Judge-VI-Cum-Special Judge



(POCSO), Madhubani is set aside and this appeal is allowed.

Let the appellant in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-Cum-Special Judge (POCSO), Madhubani in connection with Rajnagar P.S. Case No. 213 of 2021 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Rajiv Roy, J)

Jagdish/Neha/-

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