

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52551 of 2023

Arising Out of PS. Case No.-60 Year-2022 Thana- MAHILA P.S. District- Araria

Abdul Rauf @ Maulvi Abdul Rauf S/O Late Shamshuddin Resident Of
Village - Doria Sonapur, P.S. - Simraha (Forbesganj), Distt. - Araria

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Adv.

For the Opposite Party/s : Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 19-08-2023 Heard learned Counsel for the petitioner and learned
APP for the State.

2. The petitioner is apprehending arrest in a case registered for the offences punishable under Section 11 of the Child Marriage Act, 2006.

3. As per the prosecution, the allegation against the petitioner is that he has conducted the role of *Maulwi* to perform *Nikah* between the person of 65 years old with a child aged about 15 years. The said marriage was alleged to be taken place forcefully. The date of birth of child has been ascertained as minor on the basis of *Adhaar* card.

4. Counsel for the petitioner submits that petitioner is innocent and has committed no offence. He submits that at the time of *Nikah*, the age was disclosed as 19 years of the alleged

child. Counsel submits that later on upon verification from the school documents which is Annexure-5, it is also clear that the age of the alleged child is 19 years and odd on the date of marriage.

5. Counsel further submits that a medical officer has examined who has ascertained the age of the child is between 17 to 19 years. Counsel specifically submits that petitioner is retired (Madrassa) teacher aged about 70 years. Counsel also submits that at the time of marriage, *Adhaar* card was produced in which her date of birth is 01.01.2000 as such, she was 22 years old.

6. Learned APP for the State opposes the prayer for bail and submits that offence is alleged to be lodged under Section 11 of the Child Marriage Act, 2006 in which punishment is 2 years or also fine which may extend upto one lakh rupees. He submits that the offences is cognizable and non-bailable as mentioned under Section 15 of the Prohibition of Child Marriage Act, 2006.

7. In the facts and circumstances., let the above-named petitioner be released on bail, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing bail bond of ₹30000/- (thirty

thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.- Vth, Araria in connection with Araria (Mahila) P.S. Case No. 60 of 2022 , subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. It is made clear that the petitioner shall deposit Rs. 35,000/- in the *nazarat* of civil court, Araria which shall be refunded subject to the result of Araria (Mahila) P.S. Case No. 60 of 2022 (in which petitioner is accused).

(Dr. Anshuman, J.)

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