

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62247 of 2023

Arising Out of PS. Case No.-104 Year-2022 Thana- RAJEPUR District- East Champaran

Prabhat Kumar S/O- Suresh Ray, R/o Village- Gosaipur, P.S.- Rajepur Dist-
East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

For the Opposite Party/s : Mr. Binay Krishna, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 18-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in connection with Rajepur P.S. Case No.104/2022 registered for the offences punishable under Section 341, 323, 354(B), 379, 504, 506, 34 of the Indian Penal Code, Section 6, 8 and 12 of POCSO Act and Section 3(1)(r)(s)(w)(VA) of SC/ST Act pending in the Court of learned Additional Sessions Judge-7th-cum-Special Judge, POCSO Act, East Champaran, Motihari.

3. According to prosecution case, as per F.I.R. the allegation against the petitioner and co-accused Om Prakash that they have tried to commit rape upon the sister of the informant and when the sister of the informant made hulla, some persons heard the sound then both co-accused persons fled away.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this



case. The allegation as per F.I.R. against the petitioner and co-accused Om Prakash that they have tried to commit rape upon the sister of the informant and when the sister of the informant made hulla, some persons heard the sound then both co-accused persons fled away. Learned counsel for the petitioner further submits that the entire family members of the petitioner was implicated in the present case, the allegation is not of rape but of attempt of rape. It is further submitted that from the perusal of the allegation as alleged in the F.I.R. it would manifest that the occurrence did not take place in public view and the victim did not even get herself medically examined, there is no allegation against the petitioner who abused the informant by caste name. Similarly situated co-accused, namely, Om Prakash has been enlarged on anticipatory bail by a co-ordinate bench of this court vide order dated 31.07.2023 passed in Cr. Misc. No. 31194 of 2023. Petitioner has no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State opposes prayer for anticipatory bail and submits that the statement of the victim girl was recorded under Section 164 of Cr.P.C., in which she has supported the prosecution case and victim is minor and this fact is not brought before the co-ordinate Bench, so that the co-



ordinate Bench was given the bail of the co-accused.

6. Considering the facts and circumstances of case and the statement of the victim girl which was recorded under Section 164 of Cr.P.C., in which she has supported the prosecution case, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

7. However, if the petitioner surrender before the learned Court below within six weeks from today and seeks regular bail, the learned Court below would pass order on the same day in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J)

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