

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19921 of 2024

Arising Out of PS. Case No.-40 Year-2023 Thana- MAHILA P.S. District- Araria

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SHAQUIB @ TUNNU @ SAQUIB ALAM S/O DAUD R/O VILLAGE-
KAKAN, P.S- JOKIHAT, DISTT.- ARARIA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 02-04-2024 Heard Mr. Ramesh Kumar Singh, learned counsel for
the petitioner and the learned App for the State.

2. The petitioner is apprehending his arrest in connection with Mahila P.S. Case No. 40 of 2023 for the offence under Sections 341, 323, 376, 379, 504, 506 and 34 of the I.P.C. and Section 04 of the POCSO Act lodged on 19.10.2023 by the informant, Tahjib.

3. As per the prosecution story, the informant has alleged that his daughter had gone out to attend nature's call when the petitioner grabbed and raped her as there was delay, the family members came out and saw him. Though, they tried to apprehend him, his family members facilitated him in escaping. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that it was a love affair, the girl has not lodged the case, a bare perusal of the FIR would show that what the family witnessed was



certainly not in the category of rape. He further submits that there is a delay of ten days in lodging of the FIR, the petitioner do not has criminal antecedent and lastly, due to love affair, they have solemnized marriage and staying together.

5. Learned APP opposes the prayer stating that when the family members came out, they saw the petitioner on top of the lady.

6. Taking into account the facts of the case, the FIR as also the submissions put forward by the learned counsel for the petitioner and considering the aforesaid facts as also that he do not have criminal antecedent and there is a delay in lodging of the FIR and the same having been lodged, he will have to face the trial as subsequently, they have solemnized marriage and as per the date of birth, the girl has been ascertained to be more than 17 years, this Court is inclined to extend him the privilege of anticipatory bail with conditions.

7. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge,-VI-cum-Special Judge (POCSO), Araria in connection with Mahila P.S.



Case No. 40 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

8. With the aforesaid observations, the anticipatory bail application is allowed.

(Rajiv Roy, J)

Adnan/-

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