

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29550 of 2024

Arising Out of PS. Case No.-270 Year-2023 Thana- NAANPUR District- Sitamarhi

Md. Soiyab Alam Khan @ Md. Soiyab Khan Son of Late Md. Yaqub Khan
Village Majhaur PS Nanpur District Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Md. Shamimul Hoda

For the Opposite Party/s : Mr. Ashhar Mustafa
Mr. Vikash Kumar Jha

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 3 18-09-2024 1. Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out of Nanpur Police Station Case No. 270 of 2023, dated 09.06.2023, disclosing offences under Sections 341/323/354(b)/504/506/34 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act.
3. The prosecution case, as per the First Information Report, is that on 04.06.2023, in the afternoon, the informant, along with her sister, went to collect money, from the petitioner and demanded the same. The petitioner and



other accused person committed sexual assault upon the informant and her sister.

4. Learned counsel for the petitioner submits that the petitioner is 69 years old lawyer and has falsely been implicated in the present case due to the fact that in a Miscellaneous Case No. 538 of 2021, going on between the informant's father and one villager, namely, Md. Guzar, and the petitioner has filed vakalatnama on 19.07.2021 on behalf of the villager and in the E.P. 01 of 2021, filed by the villager challenging the election of Mukhiya, the petitioner has filed vakalatnama on behalf of the election petitioner on 26.10.2021. Consequently, the petitioner has been falsely implicated in this case by the informant's father at the behest of Mukhiya. Learned counsel further submits that the police, after investigation, has submitted final form not sending the petitioner for trial, however, learned Magistrate, has differed with the final form and took cognizance against the petitioner and other accused person on 22.11.2023. The informant is major which would be evident from her marksheet annexed at Annexure-1.
5. On the other hand, Mr. Ashhar Mustafa, learned counsel



for the State, vehemently opposes the prayer for bail and submits that under Section 29 of the POCSO Act there is presumption against the petitioner and learned Magistrate, after going through the statement of victim girl recorded during the course of investigation, has differed with the police report and has taken cognizance. He next submits that all the ingredients of the POCSO Act is attracted on the basis of allegation and the materials collected during the course of investigation. He further submits that even if the argument of the petitioner is accepted the younger sister of the informant is still minor.

6. Having regard to the submissions made on behalf of the parties and taking into consideration the fact that the police, after investigation, has submitted final form not sending the petitioner for trial and the petitioner is a practicing lawyer aged about 69 years, I am inclined to grant the petitioner privilege of anticipatory bail.
7. This application is, accordingly, allowed.
8. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount



each to the satisfaction of learned Additional District Judge-VI,-cum-Special Judge POCSO, Sitamarhi, in connection with Nanpur Police Station Case No. 270 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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