

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44714 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- NAVINAGAR District- Aurangabad

Sharwan Kumar @ Sharwan Paswan @ Sharwan Kumar Paswan son of Late
Vinod Paswan R/O - Vill- Thengo tola, Prahlad Bigha, P.S- Nabinagar, Dist-
Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anita Kumari Wife of Mallu Sao R/O Vill.- Kanker, P.S.- NTPC, Khaira,
Dist.- Aurangabad, Presently Prahlad Bigha, Thengo Tola, P.S.- Nabinagar,
Dist.- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Dubey, Advocate
For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 21-09-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with
Nabinagar P.S. Case No. 189 of 2023 dated 06.05.2023
instituted for the offence punishable under Sections 376, 511,
323, 448, 504 of the Indian Penal Code and Section 4 of the
Protection of Children from Sexual Offences Act, 2012.

3. The prosecution case, in short, is that on the alleged
date and time of occurrence, the informant was alone in her
house and her mother and younger sister were sitting out of her
house. In the meantime, the petitioner came into her house from
back side and on seeing alone, he caught her forcibly, kissed her,



disrobed her pant and pressed her chest. On hue and cry, he pressed her mouth and tried to rape her. In the meanwhile, the mother and younger brother of the victim came, then the petitioner fled away.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is further submitted that after investigation police submitted Final Form, but the learned court below deferred with the police report and took cognizance under Section 354 of the Indian Penal Code. Learned counsel for the petitioner submits that the alleged occurrence took place on 16.01.2023 and the present complaint case was filed on 22.03.2023 which was registered as Nabinagar P.S. Case No. 189 of 2023 on 06.05.2023. It is submitted that more than two months after the occurrence, the present case has been filed. It is further submitted that the learned Special Judge, only on the basis of statement of the victim and her mother, took the cognizance against the petitioner and ignored the statements of other witnesses such as Daroga Paswan, Shiv Pujan Paswan, Vikash Kumar, Mithilesh Paswan. The aforesaid witnesses have not supported the case of the prosecution. It is further submitted that the petitioner is a married person having three children. The date



of birth of the victim, as per her secondary school registration card, is 12.08.2007. The victim is aged about 16 years on the date of alleged occurrence. Lastly, it has been submitted that petitioner has no criminal antecedents.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner stating that there is specific allegation against the petitioner in the F.I.R.. The statement of the victim recorded under Section 164 Cr.P.C. also supports the prosecution case. The victim was minor at the time of occurrence.

6. Perused the statement of the victim recorded under Section 164 Cr.P.C which has been received in sealed envelope and opened during the course of argument. After perusal, the same has been kept in sealed envelope.

7. Since there is specific allegation against the petitioner which is also supported by the statement of the victim recorded under Section 164 Cr.P.C., I am not inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the prayer for anticipatory bail of the petitioner stands **rejected**.

9. However, if the petitioner surrenders before the court below within a period of four weeks and prays for regular



bail, the same shall be considered and disposed of preferably, on
the same day without being prejudiced by this order.

(Khatim Reza, J)

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