

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46406 of 2024**

Arising Out of PS. Case No.-79 Year-2022 Thana- MAHILA P.S. District- Samastipur

Md. Amzad @ Md. Amjad Son of Md. Jalil R/O Vill.- Bhojpur, P.S.-
Sarairanjan, Dist.- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Afarin Praveen Daughter of Md. Mustakim R/O Vill.- Gangsara, P.S.-
Sarairanjan, Dist.- Samastipur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surya Roy
For the Opposite Party/s : Mr. Ahmad Ali

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 2 07-08-2024 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 Mahila Police Station Case No. 79 of 2022, dated
15.10.2022, disclosing offences under Sections
376/341/323/504/506/34 of the Indian Penal Code read
with Section 4 of the POCSO and Section 67(A) of the IT
Act.
3. The prosecution case, as per the First Information Report,
is that about one year ago, while the victim was minor,
the petitioner developed relationship with her and on



pretext of marriage, the petitioner established physical relationship with the informant. It has further been alleged that objectionable photos of the informant were also uploaded by the petitioner on the Facebook.

4. Learned counsel for the petitioner submits that there is delay in lodging of First Information Report inasmuch as the occurrence took place on 02.09.2022, Panchayati was held and thereafter, First Information Report has been lodged on 15.10.2022. He further submits that the statement against the petitioner itself is concocted as the informant, in the opening lines of First Information Report, has stated that she is 18 years of age, whereas, the allegation that one year ago, when the informant was 16 years of age, the petitioner committed rape upon her on false promise of marriage.
5. Regards being had to the submissions made on behalf of the parties and taking into consideration the allegation and gravity of the offence and the fact that as per Section 90 of the Indian Penal Code, consent obtained under misconception of the fact is not a consent and further the informant claim to be a minor, I am not inclined to grant the petitioner privilege of anticipatory bail.



6. This application is, accordingly, rejected.

(Anil Kumar Sinha, J)

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