

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.48617 of 2024

Arising Out of PS. Case No.-72 Year-2024 Thana- BUXAR MUFFSIL District- Buxar

Ankit Upadhyay @ Ankit Kumar Upadhyay Son of Vijay Upadhyay R/O Vill.- Parasiya, P.S.- Buxar Industrial, Dist.- Buxar. At Present R/O Vill.- Jaso, P.S.- Buxar Muffasil, Dist.- Buxar and Civil Line, P.S.- Buxar Towan, Dist.- Buxar

... .. Petitioner/s

Versus

- 1. The State Of Bihar
- 2. Khushi Pathak D/O Chandrama Pathak R/O Vill.- Nenua, P.S.- Dumraon, Dist.- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Shankar Pathak
For the Opposite Party/s : Mr.Rajiv Nayan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 214-08-2024
- 1. This application, for grant of anticipatory bail, arises out of Buxar Mufassil Police Station Case No. 72 of 2024, disclosing offences punishable under Sections 341/342/328/307/376/493/504/506/34 of the Indian Penal Code and Sections 4/8 of the Prevention of Children from Sexual Offences Act, 2012.
 - 2. The prosecution case, as per the First Information Report, is that the petitioner established physical relation with the informant, who was minor, on the pretext of marriage.
 - 3. Learned Counsel for the petitioner submits that upon



perusal of the First Information Report, it would be evident that the allegation of physical relation is totally false and fabricated inasmuch as no date, time and place have been given in the First Information Report. However, with the intervention of relatives of both the parties, they tried to settle the dispute and the father of the petitioner and the father of the informant signed an agreement in presence of witnesses of both the sides having the statement that parties are agreed to solemnize marriage of the petitioner with the informant after the informant becomes major. The informant has also filed an affidavit stating the true facts before the Special Judge, POCSO, Buxar, that rape was not committed by anybody upon her. The copy of the agreement and the affidavit of the informant have been annexed at Annexures 2 and 3 to this application.

4. I have heard learned Counsel for the parties concerned and have gone through the materials available on record, including the impugned order.
5. The statement of the informant was recorded under Section 164 of the Code of Criminal Procedure, 1973, in which she has stated the involvement of the petitioner in



the present offence. The medical report of the informant also suggests the sign of sexual act upon her. The informant was minor at the time of occurrence.

6. In the case of **State of Madhya Pradesh v. Madan Lal**, reported in **(2015) 7 SCC 681**, the Supreme Court has held that in case of sexual offence, the concept of compromise specially in the form of marriage between the accused and the prosecutrix shall not be thought of and the Courts are to remain away from this subterfuge to adopt a soft approach to the case. Any such attempt would be offensive to the woman's dignity.
7. The supreme Court, in the case of **XYZ and Others v. The State of Madhya Pradesh (AIR 2021 SC 1492)**, has directed that the Courts while adjudicating cases involving gender related crimes, should not suggest or entertain any notions (or encourage any steps) towards compromises between the prosecutrix and the accused to get married, suggest or mandate mediation between the accused and the survivor, or any form of compromise as it is beyond their powers and jurisdiction.
8. Accordingly, I am not inclined to grant the petitioner privilege of anticipatory bail.



9. This application is, accordingly, dismissed

AFR/
Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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