

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51707 of 2024

Arising Out of PS. Case No.-30 Year-2023 Thana- COMPLAINT CASE District- Kishanganj

Afroz Alam Son of Mr. Halimuddin R/O- Village- Kalpir, P.S.- Kodhobari,
Distt.- Kishanganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Halim Son of Late Funnu R/O- Village- Kalpir, Ward No. 03, P.S.-
Kodhobari, Distt.- Kishanganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate
For the Opposite Party/s	:	Mr. Nirmal Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 21-08-2024 Heard learned counsel for the petitioner, learned
counsel for the Complainant and learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Complaint (POCSO) Case No.30C of 2023, pending before the Special Court (POCSO)-cum-Additional Sessions Judge-I, Kishanganj, in which vide order dated 24.05.2024 cognizance has been taken for the offences punishable under Sections 376/302 of the Indian Penal Code and under Section 6 of the Protection of Children from Sexual Offences (POCSO) Act. On the basis of solemn affirmation of



the complainant and six enquiry witnesses Court has taken cognizance under the above mentioned sections in which allegation of rape and murder of minor girl, aged about 14 years, have been made against the petitioner.

3. Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence. He submits that the allegation of killing is absolutely false and which is apparent from the content of complaint petition itself that the alleged victim who was subsequently died was alleged to be hanged but by the alleged hanging she never died. She was admitted to hospital and during treatment she died on 03.08.2023 whereas the alleged date of hanging is of 06.07.2023 as narrated in the complaint case. Learned counsel for the petitioner further submits that since death of the alleged victim took place at Bengal Medical College and within the jurisdiction of the said College, U.D. Case No.801 of 2023 had been lodged in the concerned P.S. as Bengal Matigara. Learned counsel for the petitioner further submits that there is absolutely no material against the petitioner either of murder or of ingredients of POCSO Act save and except bare allegation there is no record of any cyber material by which it can be said that any recording has been made. Learned counsel for the petitioner further



submits that antecedent of the petitioner is clean and he is unnecessarily dragged in this case.

4. Learned counsel for the complainant, on the other hand, vehemently opposes the prayer for bail and submits that the story of the occurrence has been clearly narrated in the complaint fully supported by the Solemn Affirmation (S.A.) and also fully supported by the enquiry witnesses. Though, materials has not been produced at this level but allegation is consistent about age of the victim, the modus operandi of the crime under which repeated rape has been caused. Subsequently, it is the footage recorded by the alleged accused persons of the victim (now deceased) she was subjected to death though her death was taken place at Bengal, where police refused to lodge FIR and instead thereof U.D. case had been lodged. Counsel for the complainant further said that cognizance has been taken in this case against the petitioner under Sections 376, 302 of the Indian Penal Code read with Section 6 of the POCSO Act. Therefore, at this juncture, the petitioner may not be granted anticipatory bail.

5. Learned Additional Public Prosecutor for the State also opposes the prayer for anticipatory bail and submits that cognizance has been taken under Section 376 and 302 of



the Indian Penal Code and under Section 6 of the POCSO Act.

6. In the present facts and circumstances, it transpires to this Court that the victim was basically a minor girl who died and allegation of rape is there, therefore, this Court is not inclined to grant anticipatory bail to the petitioner. Hence, the prayer for anticipatory bail is refused.

(Dr. Anshuman, J)

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