

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60768 of 2024

Arising Out of PS. Case No.-65 Year-2024 Thana- Bathnaha District- Araria

Md. Rajul Son of Md. Sulaiman @ Gulpa Village- Fena Belahi, Bathnaha,
P.S.- Bathnaha, District- Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Afsana Khatoon Wife of Md. Jabir R/O Vill.- Fena Belahi, Ward no. 12,
P.S.- Bathnaha, Dist.- Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vivekanand Singh

For the Opposite Party/s : Md. Aslam Ansari

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 01-10-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 341, 323,
376, 504, 506 and 34 of the Indian Penal Code and Section 4 of
the POCSO Act.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of one case and the informant alleges
that on 24-6-2024, her minor daughter aged about 15 years was
going to the house of grand mother at 10 PM with cooked fish
and when she reached near the house of Md. Karu, the petitioner
came and took her daughter near a canal by pressing her mouth
and raped her under a tree and thereafter threatened the victim
and fled, 10 minutes later the daughter of the informant came



walking unsteadily and narrated the occurrence, accordingly the informant along with others went to the house of the petitioner where she was abused and insulted.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is also submitted that it does not appear probable that victim at 10 o'clock in the night would have gone to the house of her grand-mother for giving cooked fish. It is also submitted that from perusal of the injury report (Annexure-2), it would manifest that the same records that no external injury was found on face, breast, back and private part of body nor spermatozoa either seen dead or alive and accordingly it was opined that there is no sign of fresh sexual assault and the victim was assessed in between 15-17 years. It is also submitted that injury report further records that hymen was ruptured (old).

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that even if the injury report is not supporting the allegation of rape but then from perusal of the allegation as alleged in the FIR, it would manifest that the informant alleges that the victim came back home after the occurrence and was walking unsteadily, which amply demonstrates that something had happened with the



victim on account of which she was not in a position to walk properly. It is next submitted that though the injury report records that hymen was ruptured (old), but then hymen can rupture on account of various issues. It is also submitted that the injury report does not record that victim was habituated to physical relation. Learned APP also submits that the victim in her statement recorded under section 164 Cr.P.C. has supported the case of the prosecution but then is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that the injury report does not corroborate rape. It is next submitted that if the privilege of anticipatory bail is granted to the petitioner, the petitioner may abscond, on which the learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond rather will cooperate in the investigation to prove his innocence.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where



the case is pending/successor court in connection with Bathnaha P.S. Case No. 65 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. One of the bailors of the petitioner shall be his father, Md. Sulaiman @ Gulpa.

8. However, it is made clear that in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioner after recording reasons.

9. It is further made clear that if after investigation, charge sheet is submitted connecting the petitioner with the offence, in that event, the present anticipatory bail order shall lose its effect.

10. Let a copy of this order be sent to the concerned police station through the learned Trial Court.

(Satyavrat Verma, J)

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