

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61786 of 2024

Arising Out of PS. Case No.-310 Year-2023 Thana- KALYANPUR District- East Champaran

Anwar Miya @ Md. Anwar Son of Aash Mohammad Miya R/O Vill.- Hira Chhapra, P.S.- Kalyanpur, Dist.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hasina Khatoon Daughter of Late Khodadin Miya R/O Vill.- Hira Chhapra, P.S.- Kalyanpur, Dist.- East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar
For the State	:	Mr.Mritunjay Kumar Nirala
For the informant	:	Mr. Shashank Shekhar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

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| 2 | 17-10-2024 | <ol style="list-style-type: none">1. Heard learned Counsel for the petitioner, learned Counsel for the informant and learned Additional Public Prosecutor for the State.2. This application, for grant of anticipatory bail, arises out of Kalyanpur Police Station Case No. 310 of 2023, dated 02.09.2023, disclosing offences punishable under Sections 346/511/34 of the Indian Penal Code and Sections 8/10/12 of the Prevention of Children from Sexual Offences Act, 2012.3. The prosecution case, as per the First Information Report lodged on the basis of the complaint petition filed by the Opposite Party No. 2 before the learned Special Judge, POCSO, East Champaran, at Motihari, is that the |
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petitioner along with co-accused Mumtaz Mian entered into the informant's room from the backside of her house at about 11-12 in the mid night on 07.06.2023 and when the informant woke up, co-accused Mumtaz Mian put knife on her neck, pressed her mouth and made her lie on the bed and the petitioner disrobed her and tried to commit rape upon her.

4. Learned Counsel for the petitioner submits that a false case has been lodged against the petitioner due to long standing land dispute between the parties. Both the parties are co-sharers and based upon the concocted story, the complainant has been filed, which has been converted into First Information Report under Section 156 (3) of the Code of Criminal Procedure, 1973. The police investigated the matter thoroughly and submitted final form not sending the petitioner for trial. However, the learned Special Judge, differing with the police report, has taken cognizance against the petitioner.
5. On the other hand, learned Counsel for the Opposite Party No. 2/informant vehemently opposes the prayer for bail and submits that the petitioner along with other attempted to commit rape upon the informant and the learned



Special Judge, after having found the *prima facie* case, has taken cognizance against the petitioner.

- 6. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the fact that both the parties are co-sharers, having long standing land dispute and the police, after completion of investigation, submitted final form not sending the petitioner to face the trial, I am inclined to grant the petitioner privilege of anticipatory bail.
- 7. This application is, accordingly, allowed.
- 8. Let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, POCSO, East Champaran, at Motihari, in connection with Kalyanpur Police Station Case No. 310 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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