

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.68790 of 2024**

Arising Out of PS. Case No.-79 Year-2024 Thana- MAHILA PS District- Darbhanga

Afroj Ali Nadaf S/O Md. Haidar Resident of Village- Belhi, Police Station-  
Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh

Mr. Saurav Anand

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

- 2      03-10-2024                      1.    Heard learned counsel for the petitioner, learned  
A.P.P. for the State and learned counsel appearing on behalf of  
the informant.
2.    The petitioner apprehends his arrest in a case  
registered for the offences punishable under Sections 64, 115(2)  
and 3(5) of the Bhartiya Nayay Sanhita.
3.    Learned counsel for the petitioner submits that  
petitioner is a person with clean antecedent and the informant  
alleges that on 3-7-2024 at 12 PM, while she was sleeping in her  
house when petitioner entered and forcibly raped her, on alarm  
people gathered and apprehended the petitioner but thereafter all  
the accused persons came and tried to free the petitioner, when  
in the meantime some one called the police on 112, thereafter  
police came and took the petitioner to the police station but then  
not case was instituted.



4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant. It is next submitted that from perusal of the FIR, it would manifest that date of occurrence is of 3-7-2024 and the FIR has been instituted on 10-7-2024. It is also submitted that it does not appear probable that if the police on 3-7-2024 had come based on a call made on 112 and had taken the petitioner to the police station, thereafter no FIR would have been instituted. It is next submitted that it also does not appear probable that informant while sleeping in her house when no one was around would have kept the door opened so that anyone could easily enter the house. It is further submitted that the petitioner is neighbour of the informant but then from perusal of allegation as alleged in the FIR, it would manifest that the same does not disclose who the petitioner is. It is next submitted that a specific pleading has been made at para-6 of the anticipatory bail application that a dispute has arisen in between the informant and mother of the petitioner with regard to passage and drainage.

5. Learned A.P.P. for the State and learned counsel appearing on behalf of the informant opposes the prayer for anticipatory bail of the petitioner. Learned counsel appearing on behalf of the informant submits that why the informant would falsely implicate the petitioner. It is also submitted that FIR is



not an encyclopedia and it may be a possibility that the informant missed on the fact to state in the FIR that petitioner is her neighbour. It is also submitted that informant was under the impression that since police had taken the petitioner to the police station as such an FIR would have been instituted on which the learned counsel appearing on behalf of the petitioner submits that since petitioner was not arrested and was in the village as such the informant was knowing that the petitioner has not been arrested but still the FIR came to be instituted belatedly. Learned counsel for the petitioner further submits that even the injury report belies the allegation of rape.

6. At this stage learned APP submits that investigation of the case is in its nascent stages and if the privilege of anticipatory bail is granted to the petitioner, the petitioner may abscond or try to temper with the evidence, 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.

7. 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. 10,000/-



(Rupees Ten 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 Mahila P.S. Case No. 79 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

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 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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