

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68570 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- MAHILA P.S. District- Saharsa

Babita Devi Wife of Upendra Das Resident of Mohalla - Gangjala, Ward
No.15/17, Police Station and District - Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. XXX, C/o Moti Ram Resident of Mohalla - Gangjala, Ward No.15, Police
Station - Saharsa, District - Saharsa

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Opposite Party/s : Mr. Anish Chandra, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

510-04-2025

Heard learned Counsel for the petitioner, learned
Additional Public Prosecutor for the State and learned counsel
for the informant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 341, 342, 376(3), 506 and 34 of the I.P.C., and under Sections 4 and 6 of the POCSO Act.

3. The prosecution case as disclosed in the F.I.R. is that a written complaint was filed on 10.03.2024, by the mother of the victim girl stating that one Upendra Das and his wife Babita Devi (petitioner) were residing as neighbours to the informant’s house and whenever the daughter would go to

school, the petitioner would send her daughter for cleaning her room and medical shop where her husband Upendra Das used to induce her by giving eatable things or some paise and committed rape upon her for last 10 to 15 days and whenever her daughter protested, he threatened to kill her and her family members.

4. Learned counsel for the petitioner submits at the outset, that the main allegation as according to the F.I.R. is upon Upendra Das, who is already in custody. So far as the petitioner is concerned, she happens to be the wife of the said Upendra Das and it is difficult to imagine that she would be assisting her husband in any way in rape being committed upon the victim girl. He further draws the attention of the Court to the medical report of the girl which shows that the doctor does not found any sign of physical assault upon the victim and further, the statement of the victim was recorded under Section 164 of the Cr.P.C. wherein she had raised allegation against the said Upendra Das who is already in custody and nothing specific was stated as against the present petitioner. It has also been brought to the notice of the Court that after investigation, final report was submitted in which the petitioner was said to be innocent and was not sent up for trial. However, the learned court below

was pleased to take cognizance against the petitioner also differing with the final report.

5. Learned APP for the State opposes the prayer for anticipatory bail application.

6. Taking into consideration all the above mentioned facts and circumstances as well as the fact that the investigating agency did not find the case true against the petitioner and the main accused of the case is already behind the bars, let the petitioner, above named, in the event of her arrest or surrender before the Court below within four weeks, 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 Exclusive Special Judge (POCSO), Saharsa in connection with Saharsa Mahila P.S. Case No. 04 of 2024, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure/Section 482 (2) of the B.N.S.S., 2023, with further condition that the petitioner shall co-operate in the investigation/trial.

(Soni Shrivastava, J)

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