

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76223 of 2024

Arising Out of PS. Case No.-70 Year-2024 Thana- Nawalpur District- West Champaran

Arbaz Alam @ Arbaz Ansari S/O Harun Ansari R/O Vill- Semri Bhawanipur,
P.S- Navalpur, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. X W/O Allauddin Ansari R/O Vill- Semri Bhawanipur, P.S- Navalpur,
District - West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Jitendra Kumar Singh, A.P.P.
For the Informant	:	Mr. Sachida Nand Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 29-01-2025 Heard Learned Counsel for the petitioner, Learned
APP for the State and Learned Counsel for the informant.

2. The present Cr. Misc. Application has been filed under Section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS, 2023") for grant of anticipatory bail to the petitioner who apprehends his arrest in connection with Nawalpur P.S. Case No. 70 of 2024 lodged on 29.08.2024, for the offences punishable under Sections 64, 81 of the Bharatiya Nyaya Sanhita, 2023 as well as sections 4, 8 of the POCSO Act.

3. As per the prosecution, FIR has been lodged against the sole petitioner. It has been alleged in the FIR that the



petitioner has developed physical relation with the informant's daughter who is aged about 16 years.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel submits that from the contents of FIR, it become crystal clear that physical relation has been developed only by virtue of full consent of the informant's daughter. Counsel submits that version of the *fardbayan*, statement under section 161 and 164 of the Cr.P.C. are in complete contradiction and by conjoint reading of all the three statements, it is very much clear that petitioner is innocent and whatsoever be the physical relation developed, it is only due to full consent of both i.e. informant's daughter and petitioner. Counsel further submits that the community which the petitioner and informant's daughter belongs, marriage used to take place in relatives and only with a view to create pressure, this case has been filed.

5. Learned Counsel for the petitioner further submits that petitioner is aged about 20 years and he is a minor person for the purpose of marriage, and therefore, this aspect must be taken into consideration. Counsel also submits that petitioner has no criminal antecedent.

6. Learned APP for the State opposes the prayer for



bail of the petitioner.

7. Learned Counsel for the informant vehemently opposes the prayer for bail of the petitioner and submits that from the FIR itself, it become crystal clear that the victim was minor and the accused petitioner was major on the date of alleged occurrence, so far as the Indian Majority Act, 1875 is concerned. Counsel further submits that on earlier occasion, case diary, medical report of the victim as well as statement under section 164 of the Cr.P.C. has been called for and from the case diary, it transpires that there are two things i.e. statement under section 164 Cr.P.C. in which involvement of petitioner is there as the victim has disclosed against the petitioner, but on the other hand, from medical report, it does not constitute any commission of intercourse.

8. In the present facts and circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner is hereby rejected.

9. It is directed to the petitioner to surrender before the Trial Court within a period of 4 weeks from today. In case, the petitioner surrenders within four weeks, then the Trial Court is directed to pass order on his surrender-cum-bail application on the same day considering all the documents including the



medical report, without being prejudice that the anticipatory bail of the petitioner has been rejected by this Court and the Trial Court shall pass order on the merit of this case.

(Dr. Anshuman, J)

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