

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82208 of 2024

Arising Out of PS. Case No.-354 Year-2024 Thana- PIRPAINTI District- Bhagalpur

Md. Samir S/O Md. Salim Resident of village- Mirdhabasa, Parasbana, P.S-
Ishipur Barahat, Distt.- Bhagalpur, Pin- 813206.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lalita Devi W/O Srinivas Mahto R/O Village- Kishanichak, P.O-
Ammapali, P.S- Ishipur Barhat, Distt.- Bhagalpur, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nivedita Nirvekar, Sr. Adv
For the State	:	Mr. Ram Priya Sharan Singh, Adv
For the Informant	:	Mr. Digvijay Kumar Ojha, Adv

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 19-06-2025 Heard Ms. Nivedita Nirvekar, learned senior counsel

for the petitioner, learned counsel for the Opposite party no. 2

and the State.

2. Petitioner apprehends his arrest in a case registered

for the offences punishable under Sections 64, 126(2),115(2),

351(2), 352 of the BNS and section 4 of the POCSO Act.

3. The allegation made in the FIR, is that while the

informant's minor daughter was going to her college , the

petitioner dragged her inside the jungle/ garden and threatened

and made an attempt to commit rape.

4. Learned senior counsel for the petitioner submits



that the allegations made in the FIR are not correct and as a matter of fact besides the statement of the informant, only the statement of her own family members have been recorded during the course of investigation and not a single independent witness has been examined, who would even support the facts that the petitioner was seen in the vicinity of the occurrence along with the victim girl. It has also been submitted that the girl was also put to medical examination and the medical examination report also shows that she did not suffer any external or internal injury and her age is also assessed to be above 18 years. On strength of such medical examination report, the learned senior counsel submits that the provisions of POCSO would not be attracted in the facts of the case. Further, it has also been submitted that in 164 Cr.P.C statement of the victim girl, she has clearly stated that she did not know the petitioner previously and hence, it does not stand to reason as to how the name of the petitioner appears in the FIR along with details, as an accused.

5. The learned APP and the counsel for the opposite party no. 2 oppose the bail application. Learned counsel for the OP.No. 2 submits that the age of the victim girl as per the FIR



and her educational certificate which has been collected during the course of investigation, is below 17 years and hence, the girl is a minor and the provisions of POCSO would be attracted. Further the counsel has laid emphasis on the statement of the victim girl recorded under section 164 Cr.P.C where she has supported the fact narrated in the FIR. However, the informant is not in a position to answer as to how the name of the petitioner, has come in the FIR, when the victim girl alleges that the petitioner was not known to her.

6. Be that as it may, taking into consideration the fact that as per the educational qualification, the victim is a minor and in her statement under section 164 Cr.P.C she has supported the allegations, I am not inclined to grant privilege of anticipatory bail to the petitioner. Accordingly, his prayer for anticipatory bail in connection with Pirpainty P.S.Case No. 354 of 2024 pending in the court of learned Exclusive Special Court & Sessions Judge, Bhagalpur stands rejected.

7. However, if the petitioner surrenders before the court below and prays for regular bail, the facts which has been urged here shall be considered on its own merits without being



prejudiced by the present order.

8. The application stands disposed of.

(Soni Shrivastava, J)

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