

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89338 of 2024

Arising Out of PS. Case No.-181 Year-2023 Thana- GOPALPUR District- Patna

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Dhiraj Kumar Son of Naresh Ram Resident of village - Chakbay, P.S. -
Warisaliganj, District - Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raghuvir Kumar Son of Brijnandan Singh Resident of Village- Kanauji,
P.S.- Gopalpur, Distt.- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Adv.
For the Opposite Party/s	:	Mr. Ram Sumiran Rai, APP
For the O.P. No. 2	:	Mr. Santosh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 19-04-2025 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the informant.

2. The petitioner apprehends his arrest in connection with Special Case No. 83 of 2023 (arising out of Gopalpur P.S. Case No. 181 of 2023) registered for the offence punishable under Sections 341, 323, 354 and 427 of the Indian Penal Code and Sections 8 and 12 of the POCSO Act.

3. The prosecution case, in short, is that on the alleged date of occurrence while the informant's minor daughter, aged about 15 years was returning after study from Central School, Kankarbagh and when she reached at Baiman Tola More then accused Dhiraj Kumar (petitioner) started teasing her from behind, on which the daughter of victim kept going but the petitioner again started teasing her. It is alleged that when the



daughter of informant protested then the petitioner reached to the house of informant and started beating his daughter, on which the wife of informant came out of the house but then the petitioner started pelting stone and broke the glass of the window of house and fled away. It is further alleged that when the wife of the informant informed him, then the informant came to his house and saw the broken glass. It is further alleged that petitioner also threatened the informant from his mobile that he would kill him.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is submitted that petitioner is a young boy of 20 years studying in intermediate. It is also submitted that the POCSO Act would not apply in view of the allegation made in the F.I.R.. So far question of maintainability of anticipatory bail is concerned, the learned counsel for the petitioner has relied upon a decision of the Hon'ble Apex Court in Criminal Appeal No. 4564 of 2024 dated 12.11.2024, wherein, the Hon'ble Apex Court has held that *"in the event of declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for grant of anticipatory bail."* Lastly, it has been submitted that he has no



criminal antecedent.

5. At the very outset, learned counsel appearing for the opposite party no. 2 submits that this application for anticipatory bail is not maintainable in view of the fact that processes under Section 82 of the Cr.P.C./Section 84 of the BNSS has already been issued.

6. Learned A.P.P. has opposed the prayer for bail of the petitioner and stated that this anticipatory bail is not maintainable as the process under Section 82 of the Cr.P.C. has been issued against the petitioner.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Special Case No. 83 of 2023 (arising out of Gopalpur P.S. Case No. 181 of 2023), he shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-VI-cum-Exclusive Spl. Court POCSO, Patna, subject to condition as laid down under Section 438(2) of the Cr.P.C. as also to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every



date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

3. The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

4. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

5. If the petitioner again tries to molest or harass the daughter of the informant or any other girl in future, the bail of the petitioner shall be cancelled.

(Khatim Reza, J)

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