

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No. 6550 of 2021

Ram Nandan Paswan @ Raj Nath Paswan @ Ram Nandhan Paswan	...	Petitioner
Versus		
The State of Jharkhand	...	Opposite Party

CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner	:	Mr. Indarjit Sinha, Advocate
For the State	:	Mr. P.D. Agrawal, Spl. P.P.

Order No.02 Dated- 10.09.2021

Heard the parties through video conferencing.

Learned counsel for the petitioner personally undertakes to remove the defects as pointed out by the stamp reporter within two weeks after the lockdown period is over.

In view of the personal undertaking of the learned counsel for the petitioner, the defects pointed out by the stamp reporter are ignored for the present.

Apprehending his arrest, the petitioner has moved this Court for grant of privilege of anticipatory bail in connection with Sidhgora P.S. Case No.169 of 2019 registered under sections 376AB of the Indian Penal Code and under Section 6 of POCSO Act.

The Learned counsel for the petitioner submits that the allegation against the petitioner is that the petitioner has committed rape upon a girl of 5 years of age. It is further submitted that the allegations against the petitioner are all false and though the police after due investigation submitted final form and did not send up the petitioner for trial but the learned Special Judge under the POCSO Act has taken cognizance *inter alia* for the offence punishable under Section 376AB of Indian Penal Code and Section 6 of POCSO Act against the petitioner. It is next submitted that the investigation is over and there is no justifiable reason to keep the petitioner who is an old person of 67 years of age in custody. It is then submitted that since there were a lot of family members apart from the mother of the victim in the house of the petitioner hence,

it is highly unlikely that the said occurrence could have taken place inside the house of the petitioner. It is therefore submitted that the petitioner be given the privilege of anticipatory bail.

Learned Spl. P.P. on the other hand vehemently opposes the prayer for grant of anticipatory bail and drawing attention of this Court to Section 438 (4) Cr.P.C. submits that nothing in the said section 438 shall apply to any case involving the arrest of any person on accusation of having committed an offence under Section 376AB, and on this score alone the petitioner is not entitled to the privilege of anticipatory bail. It is further submitted that the old rupture of the vagina of such a small minor girl of five years as undisputedly found in the medical examination of the victim girl coupled with the statement of the victim recorded under Section 164 Cr.P.C. wherein she had vividly narrated above the occurrences supporting the case of the prosecution, speaks volumes about the offence committed by the petitioner as the victim girl has categorically stated about the petitioner inserting his finger in her urethra and put own penis on the rectum of the minor girl. Hence, it is submitted that the petitioner ought not to be given the privilege of anticipatory bail.

Considering the serious nature of allegation against the petitioner, this Court is of the considered view that this is not a fit case where the above named petitioner be given the privilege of anticipatory bail. Accordingly, the prayer for grant of privilege of anticipatory bail of the above named petitioner is rejected.

(Anil Kumar Choudhary, J.)