

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12293 of 2019

Arising Out of PS. Case No.-61 Year-2018 Thana- ANTICHAK District- Bhagalpur

Fudri Miyan @ Sabeer Miyan, Son of Md. Kurwani @ Kurwani Miyan,
Resident of Village - Birbanna, P.S-Antichak, Dist.-Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tarun Prasad Mandal

For the Opposite Party/s : Mr. Arun Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-02-2019 Heard learned counsels for the petitioner and the
State.

The petitioner is languishing in custody since 21.10.2018 in a case registered for the offences punishable under Sections 341, 323, 448, 307, 354B and 34 of the IPC and under Section 27 of the Arms Act.

The prosecution case, as per the written report of Ashok Sah, submitted to the Station House Officer, Antichak Police Station, is to the effect that on 23.08.2018, the wife of the informant, Renu Devi was sleeping with her children on the roof of her house. In the meantime, four accused persons including the petitioner, entering into the house of the informant and tried to outrage the modesty of his wife. On protest being made by



the wife of the informant, the accused persons shot at the her. On hearing the sound of firing, nearby people came and took the informant's wife to Kahalgaon Sadar Hospital from where, she was referred to JLNMCB, Bhagalpur and thereafter, for better treatment she was transferred to Silliguri Hospital. It is further alleged that the wife of the informant is senseless as yet.

It is submitted by learned counsel for the petitioner that for the occurrence of 23.08.2018, the FIR has been registered on 05.09.2018 but the FIR does not suggest the accusation of rape. It is further submitted that the victim in her subsequent statement, alleged that she was also ravished by all the FIR named accused persons and after committing rape, co-accused, Kailash Yadav fired upon her which hit on her temporal region due to which, she fell down and became unconscious. Though the order dated 05.02.2019, passed in Cr. Misc. No.112 of 2019, reflects that during investigation, the statement of the victim recorded, wherein the victim has stated that co-accused, Kailash Yadav caused firearm injury to her. Moreover, similarly situated accused persons, Pappu Sharma has been granted bail by a Co-ordinate bench of this Court, vide order dated 05.02.2019, passed in Cr. Misc. No. 112 of 2019, Prakash Sharma has been granted bail by Co-ordinate bench of this Court, vide order



dated 13.02.2019, passed in Cr. Misc. No. 2511 of 2019 and Kailash Yadav has been granted bail by a Co-ordinate Bench of this Court, vide order dated 07.02.2019, passed in Cr. Misc. No.7205 of 2019. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in two other cases but in both the cases, he is on bail.

It is submitted by learned APP for the State that the petitioner is named in the FIR.

Considering the accusation of rape not being corroborated by any medical opinion and similarly situated co-accused persons have been granted bail by a Co-ordinate Bench of this Court, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned **A.C.J.M.-IX, Bhagalpur** in connection with **Antichak P.S. Case No. 61 of 2018.**

(Dinesh Kumar Singh, J)

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