

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32781 of 2021

Arising Out of PS. Case No.-48 Year-2021 Thana- JAGDISHPUR District- Bhojpur

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UMESH CHOUDHARI @ UMESH CHAUDHARY S/o Late Jhakri
Choudhary Resident of Village- Dulour, Ward No.16, P.S.- Jagdishpur,
District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mohit Shriwastava

For the Opposite Party/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 22-09-2021 Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

The present matter has been taken up out of turn on
the mentioning slip filed on behalf of the petitioner stating
therein that the mother of the petitioner is keeping ill and is
suffering from Parkinson disease. Let the mentioning slip filed
on behalf of the petitioner be kept on record.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the Office, within a period
of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in a case
registered under Sections 493 and 494 of the Indian Penal Code
and 4 and 8 of POCSO Act.



The prosecution allegation, in short, is that on the pretext of marriage, the accused person committed rape on the victim.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The case has been instituted for offences under Sections 493 and 494 of the Indian Penal Code and sections 4 and 8 of POCSO Act. As per the allegation, on a false assurance, petitioner, who is aged about 42 years, on the pretext of marriage, established physical relationship with the victim. Further it is alleged that a marriage was also performed and later on the petitioner disowned the victim. No date of occurrence has been mentioned in the F.I.R. Vague allegation has been levelled against the petitioner. A complaint case has also been filed by the petitioner under Section 138 of N.I. Act against the father of the informant namely Shamshad Ali Khan and his family members including the informant. The said complaint case is Annexure-5 to the supplementary affidavit. As per the said complaint filed by the petitioner, in the year 2018 i.e. on 21.7.2018, 1.5 lakhs rupees was given as a loan to the father of



the informant of the present case. The petitioner has been demanding from the father of the informant to return the said amount. Ultimately, three post dated cheques were issued by the father of the informant for an amount of Rs. 7,500/-, Rs. 50,000/- Rs. 50,000/-. All the three cheques were dated 2.1.2021. When the said cheques (Annexure-4 series to the supplementary affidavit) were presented before the Bank, the notings of the Bank shows that the account was closed. The father of the informant was very well aware that he had cheated the petitioner. Hence, the petitioner filed the said complaint case under Section 138 of N.I. Act. The said Shamshad Ali Khan, who had issued the post dated cheques dated 2.1.2021, which is one day prior to the date of the cheque, got a case instituted by his daughter who is informant of the present case only with an intention to save his skin. The present case is nothing but a mala fide prosecution and instituted for oblique reasons..

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks



from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Additional District & Sessions Judge-VI, Bhojpur in connection with Jagdishpur P.S. Case No. 48 of 2021/POCSO Case No. 13/21, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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