

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34898 of 2020

Arising Out of PS. Case No.-259 Year-2018 Thana- MASHRAK District- Saran

1. Shambhu Pandey Son of Late Munni Lal Pandey Resident of Village- Kawalpura, Mathiya, P.S.- Mashrakh, District- Saran.
2. Mahesh Ojha Son of Late Bikarma Ojha Resident of Village- Kawalpura, Mathiya, P.S.- Mashrakh, District- Saran.

... .. Petitioners.

Versus

The State of Bihar

... .. Opposite Party.

Appearance :

For the Petitioners	:	Mr. Sharda Nand Mishra, Advocate.
For the State	:	Ms. Pushpa Sinha-1, A.P.P.
For the Informant	:	Mr. Dewendra Narayan Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

3 22-06-2021 At the very outset, learned counsel for the petitioners, through Video Conferencing, submits that the petitioner no.2, namely, Mahesh Ojha, has already been arrested by the police in this case and, as such, this application, in respect of the petitioner no.2, namely, Mahesh Ojha, to grant him the privilege of pre-arrest bail has become infructuous and seeks permission to withdraw this application in respect of the petitioner no.2, namely, Mahesh Ojha.

Permission is accorded.

This application in respect of the petitioner no.2, namely, Mahesh Ojha, is dismissed as withdrawn.

Now, only the prayer of the petitioner no.1, above



named, to grant him the privilege of pre-arrest bail is being considered, through Video Conferencing.

Heard learned counsel for the petitioner no.1, above named, learned A.P.P. for the State and the learned counsel for the informant, through Video Conferencing.

The petitioner no.1, above named, apprehends his arrest in connection with Mashrakh P.S. Case No.259 of 2018 registered under Sections 341, 323, 504, 379, 376 and 511/34 of the Indian Penal Code.

The accusation is that the complainant/informant, who is lady, was moving in the village with cosmetics materials on 16.09.2017 and reached at village-Kawalpura Mathiya in the noon, where petitioner no.1 Shambhu Pandey and Mahesh Ojha were sitting and on seeing the complainant/informant, they asked her to purchase the cosmetics articles and took her cosmetics materials. Thereafter, Mahesh Ojha caught hold of hand of the complainant/informant and started to pull her in a room. When the complainant/informant raised alarm, then the petitioner no.1 Shambhu Pandey pressed her breast putting his hand in her blouse and the complainant/informant was laid down on the Chowki by Mahesh Ojha. Thereafter, Mahesh Ojha torn the blouse and Saree of the complainant/informant



and tried to commit rape on the complainant/informant. While the complainant/informant raised alarm but in spite of that petitioner no.1 Shambhu Pandey started to press her breast. In the meantime, the witnesses, named in the complaint petition, reached there, then complainant/informant saved her prestige. At that time, they also took the cash Rs.1000/- and cosmetics articles of the complainant/informant worth Rs.10,000/-.

Learned counsel for the petitioner no.1, above named, submits that, initially, the complainant/informant filed Complaint Petition No.2927 of 2017 in the court of the Chief Judicial Magistrate, Saran at Chapra, which was sent under Section 156(3) of the Code of Criminal Procedure to the concerned police station for institution of the case on which basis the present case was instituted on 02.08.2018. On investigation, the police submitted the final form in the case finding the case untrue on 20.10.2018. Thereafter, on the protest petition of the complainant/informant, the petitioner no.1 has been summoned under the aforesaid offences. In fact, Sheela Singh and Magister Rai, who are the witnesses of the complainant/informant in the complaint petition, are co-villagers of the petitioner no.1 Shambhu Pandey, who got managed to file the protest petition due to village dispute. The



petitioner no.1 Shambhu Pandey has no criminal antecedent.

Having considered the facts and the circumstances of the case, let the petitioner no.1, above named, in the event of his arrest or surrender by him within six weeks from today, be enlarged on bail on his furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate-6, Saran at Chapra, in connection with Mashrakh P.S. Case No.259 of 2018, subject to the conditions laid down under Section 438(2) Cr.P.C.

Accordingly, this application stands disposed of.

(Rajendra Kumar Mishra, J)

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