

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7009 of 2022

Arising Out of PS. Case No.-10 Year-2020 Thana- CHANDRADIP District- Jamui

MD. AFSAR KHAN SON OF KAUSAR KHAN R/O VILLAGE-
MATWALWA, P.S.- CHANDRADEEP, DISTRICT- JAMUI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anwar Karim, Advocate

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-08-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 341, 323,
354 and 354(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner has no criminal antecedent.

The informant alleges that on 23.01.20220, at about
05:00 p.m., while she was coming back to her home, on the way
she was intercepted by the petitioner who attempted to disrobe
her and started assaulting her but she managed to escape from
the place of occurrence and narrated the entire story to her
family member. It is alleged that prior to this occurrence, the



petitioner had also misbehaved with the informant.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the allegation is of attempting to disrobe the informant while she was returning home. He further submits that petitioner has been falsely implicated in the present case as the FIR does not even remotely suggest that the occurrence was witnessed by any person of the road. He next submits that as far as allegation of assaulting is concerned, the same has been alleged only to give serious colour to the case when admittedly there is no injury report on the record. He also submits that if the petitioner had misbehaved earlier but then no case came to be instituted which demonstrates that the petitioner has been falsely implicated only to give a serious colour to the case. Learned counsel next submits that petitioner had earlier received the benefit of Section 41(A) of the Cr.P.C. but police after investigation submitted charge-sheet based on which cognizance was taken, as such, the petitioner now apprehends that he may be arrested. Learned counsel next relies on the order dated 28.06.2022 passed in Cr. Misc. No. 69403 of 2021 to submit that the benefit given to the petitioner under Section 41(1) of the Cr.P.C. was never misused and also relies on a judgment of this



Court reported in 2015(3) PLJR 618 (Gauri Shankar Roy vs. The State of Bihar) wherein this Court after examining the provisions of law and the earlier judgment had come to a considered conclusion that an anticipatory bail is maintainable in the event, if the privilege of Section 41(1) of the Cr.P.C. is granted to the accused persons.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Chandradeep P.S. Case No. 10 of 2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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