

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31432 of 2021

Arising Out of PS. Case No.-90 Year-2020 Thana- GADHPURA District- Begusarai

Shiv Sah @ Shiv Kumar Sah @ Sibu Sah Son Of Phucho Sah R/O Ranichak,
P.S.- Gadhpura, District - Begusarai, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sumit Shekhar Pandey, Pandey

For the Opposite Party/s : Mr. Satyandra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 12-07-2022 Let the defects, if any, be removed within four weeks from today.

Heard Mr. Sumit Shekhar Pandey, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in connection with Gadhpura P.S.Case No. 90 of 2020 for the offences punishable under Sections 376, 384, 504, 506, 509/34 of the Indian Penal Code.

The prosecution case is based on a written report of the informant, allegedly stated that six months prior to institution of this case, one Santosh Das by putting the informant in fear of killing her son, had made physical



relation and committed rape on her and he also prepared video. It is further alleged that the said Santosh Das again tried to have physical relation with the informant having shown her the fear of the said video but she did not agree for the same and thereupon, the co-accused Santosh Das, transmitted the said video to one Rahul Paswan and Shiv Sah, (petitioner), who also attempted to have physical relation with the informant.

It is submitted by the learned counsel for the petitioner that the falsity of the prosecution case is evident from the facts that neither the date nor the time has been mentioned as to when she was subjected to rape and moreover, with regard to an occurrence which had taken place six months ago the present FIR has been instituted on 11.10.2020 that too, by making allegation that this petitioner had tried to make physical relation with the informant by giving threat of making the video viral. It is further submitted that prior to institution of this case, Panchayati was held and the conduct of the informant was found not up to the mark as she was habitual in instituting the cases by making false allegation. The copy of



panchayati is annexed as contained in Annexure-2 to this petition. It is further submitted that even the Surpanch and other villagers filed a complaint against the informant with regard to her conduct, the copy of which has been annexed as Annexure-4 to this petition. It is next submitted that except the allegation that this petitioner has attempted to commit rape, there is no other allegation or any other material which has come during the course of investigation and so far as the specific allegation is concerned, the same is attributed against one Santosh Das. It is next submitted that petitioner is in custody since 28.01.2021 and moreover, investigation has already been completed and the charge sheet has been submitted.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that petitioner has tried to black mail the informant and attempted to make physical relation.

Having heard the rival contentions of the parties and taking into consideration the fact that there are various materials which suggest with regard to the conduct of the informant, who was found habitual in filing of Vexatious



cases and making false allegation , apart from the fact that this petitioner is in custody since 28.01.2021, having clean antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai in connection with Gadhpura P.S. Case No. 90 of 2020 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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