

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26495 of 2022

Arising Out of PS. Case No.-218 Year-2021 Thana- MUFFASIL District- West Champaran

Rambabu Mahto S/O Jay Narayan Mahto, R/o village- Purbi Kargahiya, P.S.-
Bettiah Muffasil, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arti Devi W/o Rambabu Mahto, D/o Hiralal Das R/o village- Kathaiya,
bishunpura, P.S.- Jagdishpur, District- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Gupta, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 29-09-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Vide order dated 02.09.2022 notice was issued to O.P.
No.2. On 22.09.2022 this case was listed and adjourned for
verification of the service report.

The service report is attached with this file which is of
22.09.2022 in which it has been indicated by the process server
that the mother of O.P. No.2 has received the notice. In this way,
the notice has been validly served. Today no one appeared to
defend of O.P. No.2 even after valid service of notice.

The petitioner seeks regular bail in connection with Bettiah (Muffasil) P.S. Case No. 218 of 2021 lodged under Sections 323, 498A, 376, 504 and 506/34 of the Indian Penal Code.

The allegation as per prosecution is to torture by the husband and his family members alongwith assault, abuse and rape at the hand of younger brother of the petitioner.

Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He further submits that the date of institution of the present case is 23.03.2021 whereas he has annexed Annexure-2 another F.I.R. filed by the same informant dated 20.02.2021 lodged under section 498A/34 of the I.P.C. only. In the said F.I.R., there is absolutely no allegation save and except to assault and torture. Learned counsel for the petitioner has annexed the final report submitted by the police in this case under sections 173/174 of Cr.P.C. by which police has found case under section 376 of I.P.C. false and charge sheet has been filed only under sections 323, 498A, 504, 506/34 of the I.P.C.. Learned counsel for the petitioner further submits that except section 498A, all the sections areailable. He further submits that vide Annexure-4 the accused against whom the allegation of rape is there has

already been granted bail by the Co-ordinate Bench of this Court 24.03.2022 passed in Cr. Misc. No. 47314 of 2021. Learned counsel for the petitioner further submits that the present F.I.R. is absolutely false in which unbelievable story has been narrated. He further submits that petitioner is in custody since 23.03.2021 having one criminal case against him which was filed by the informant herself in the month of February, 2021, except that his antecedent is clean and charge sheet has already been filed in this case.

Learned counsel for the State opposes the prayer for bail.

In the present facts and circumstances of the case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Court, POCSO-cum- A.D.J.- VI, West Champaran, Bettiah in connection with Bettiah Mufassil P.S. Case No. 218 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date

fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file an affidavit before the court about his relationship with the petitioner.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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