

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37765 of 2021

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

MAHESH OJHA Son of Late Bikarma Ojha Resident of Village- Mathiya,
P.S.- Mashrakh, District- Saran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sharda Nand Mishra, Adv.
For the State	:	Mr.Anil Kumar, APP
For the Informant		Mr. Dewendra Narayn Singh, Adv.
		Mr. Ashutosh Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 28-02-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be removed within four weeks of start of normal functioning of the physical court.

Petitioner seeks bail in connection with Complaint Case No. 222/ 2019 (arising out of Mashrakh P.S. Case No. 259/ 2018) registered for the offences punishable under Sections 341, 323, 504, 379, 376, 511, 34 of the IPC.

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 and co-accused Shambhu Pandey were



sitting and on seeing the complainant/informant, they asked her to purchase the cosmetics and took her cosmetics materials. Thereafter, petitioner caught hold of hand of the complainant/informant and started to pull her in a room. When the complainant/informant raised alarm, then co-accused Shambhu Pandey pressed her mouth and also by putting his hand in her blouse started pulling her in a room and the complainant/informant was laid down on the Chowki by the petitioner. Thereafter, petitioner 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 accused Shambhu Pandey started to press her breast. In the meantime, people reached there, then complainant/informant saved her prestige. At that time, they also took Rs. 1000/- and cosmetics articles of the complainant/informant worth Rs.10,000/-.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that it appears from the complaint petition that alleged occurrence took place on 16.09.2017 but the complaint petition has been filed on 12.10.2017. He further submits that pursuant to the aforesaid complaint petition the present FIR has



been instituted. He further submits that the police after investigation submitted final form in this case finding the case untrue on 20.10.2018 whereafter on the protest petition of complainant, cognizance has been taken. He further submits that co-accused Shambhu Pandey has been granted privilege of anticipatory bail by a co-ordinate Bench of this court vide order dated 22.06.2021 passed in Cr. Misc. No. 34898 of 2020 and the petitioner is in custody since 16.04.2021.

Learned counsel for the informant and the learned Additional Public Prosecutor vehemently opposed the prayer of bail submitting that petitioner carries two criminal antecedent.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-6, Saran at Chapra in connection with Complaint Case No. 222/ 2019 (arising out of Mashrakh P.S. Case No. 259/ 2018), subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two



consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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