

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.37960 of 2023**

Arising Out of PS. Case No.-4 Year-2018 Thana- GOVINDPUR  
District- Nawada

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SHYAM CHANDRA CHAUDHARY @ TAPASYA NAND S/O LATE RAM  
NARAYAN CHAUDHARY R/O Village- Selhara, P.S- Lalganj, District-  
Basti(U.P).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s:            Mr. Shivendra Prasad, Adv.

For the Opposite Party/s :        Mr. Dr.Mrityunjaya Kr.Gautam,  
APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**

ORAL ORDER

4      04-09-2023                      Heard learned counsel for the petitioner and learned  
counsel for the informant as well as learned A.P.P. for the State.

The petitioner seeks bail in connection with Gobindpur  
P.S. Case No. 04 of 2018 dated 04.04.2018 registered for the  
offence under Sections 395, 354, 354(B) and 376 of the Indian  
Penal Code.

The petitioner along with other five accused persons  
are alleged to have committed rape upon the informant and her  
two female mates on the point of firearms and also taken away  
Rs. 1,11,000/-

Learned counsel appearing for the petitioner submits  
that the petitioner is innocent and has falsely been implicated in



this case at the behest of Sachidanand who has been an accused of Basti Kotwali P.S. Case No. 3717 of 2017. He further submits that on bare perusal of the F.I.R., it appears that the occurrence is alleged to have been committed on 12.12.2017 whereas the instant F.I.R. has been lodged on 04.01.2018 after lapse of 23 days without any explanation of delay. He further submits that though there is allegation of commission of rape upon the victim against the petitioner but no such occurrence ever took place. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 03.02.2020 after being remanded in this case from Sheikhpura P.S. Case No. 09 of 2018.

Learned counsel for the informant as well as learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner that he along with his companions committed rape upon the informant and her two mates. He further submits that the informant in her statements under Section 161 and 164 Cr.P.C. has categorically stated that she has been subjected to rape committed by the petitioner and others. It has also been contended that the medical report also supports the allegation as alleged in the F.I.R. against the petitioner. Further it is contended that the petitioner carries one more case other than the present one.



A report with regard to present stage of the trial has been called for by this Court vide order dated 24.07.2023 which has been received and forms part of this application at Flag-A. On perusal thereof, it would reveal that charge has been framed against the petitioner under Section 376(D) of the Indian Penal Code and there is altogether twelve charge-sheet witnesses including six non-official and six official witness but the prosecution has not produced any witness in the case till date.

Learned counsel appearing for the petitioner referring to the aforesaid report submits that the trial of this case is not likely to be concluded in near future and the petitioner is languishing in judicial custody since 03.02.2020.

Considering the facts and circumstances of the case and also the fact that the trial has not commenced as yet and the period of custody, let the, above named, petitioner 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 learned Additional Sessions Judge-1st, Nawada in connection with S.T. No. 47 of 2021 arising out of Gobindpur P.S. Case No. 04 of 2018 with 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/her absence on two consecutive dates without sufficient



reason, his/her bail bond shall be canceled 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) One of the bailor should be the deponent, namely, Asharam, who has sworn the affidavit stating that he happens to be uncle (Fufa) of the petitioner.

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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