

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27865 of 2023

Arising Out of PS. Case No.-31 Year-2017 Thana- MAHILA P.S. District- Muzaffarpur

SHAH ALAM @ MD. SHAH ALAM Son of Md. Manuddin Resident of
Village - Patiyasa, P.S.- Ahiyapur, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate
For the Opposite Party/s	:	Mr. Bharat Lal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 30-08-2023 Heard Mr. Ajay Kumar Thakur, learned counsel for

the petitioner and learned Additional Public Prosecutor for the

State.

2. Petitioner seeks bail, who is in custody since
18.01.2023 in connection with Mahila P.S. Case No. 31 of 2017,
F.I.R. dated 05.05.2017 for the offences punishable under
Sections 376/34 of the Indian Penal Code.

3. According to prosecution case, as per F.I.R. three
F.I.R. named accused persons including the petitioner have
committed rape upon the victim.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that the



petitioner is cousin uncle of the informant and the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. and due to previous dispute the petitioner has falsely been implicated in the present case. He further submits that statement of the victim girl was recorded in which she has not taken name of the petitioner and medical report of the victim does not support the allegation as alleged in the F.I.R. He further submits that the victim has compromise the case with other co-accused persons namely, Subodh Rai and Awdhesh Lal Rai, they are the other co-accused persons in the present occurrence and informant has not filed any compromise petition with the petitioner and the reason is better known to her. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 18.01.2023.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner and submits that petitioner is named in the F.I.R. and there is direct and specific allegation that he along with other co-accused persons have committed rape upon victim but fairly submits that the victim has not taken the name of the petitioner in her statement which was recorded under Section 164 of



Cr.P.C.

6. 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 Chief Judicial Magistrate, Muzaffarpur in connection with Mahila P.S. Case No. 31 of 2017, 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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