

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28654 of 2022

Arising Out of PS. Case No.-358 Year-2021 Thana- MADHUBANI TOWN District-
Madhubani

MD MUSTAK @ MUSTAFA S/o Md. Akhtar Resident of Village- Ushrahi
Aami Tola, P.S.- Deodha, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, , Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 25-01-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 376, 302 and 34 of the
Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner is in custody since 12.11.2021 and is a person with
clean antecedent and the informant alleges that his sister
(deceased) left the house on 04.11.2021 and she did not return,
thereafter a search was made but she could not be located,
thereafter her body was recovered on 08.11.2021 from a flat in
officer's colony. Thus alleges that his sister was kidnapped,
raped and murdered.



Learned counsel for the petitioner submits that petitioner is an innocent person and has been has been falsely implicated in the present case based on suspicion, it is next submitted that FIR is against unknown and the FIR came to be instituted four days after the occurrence, it is next submitted that it absolutely does not stand to reason that when the deceased was missing why no FIR came to be instituted the next day i.e., on 05.11.2021. The learned counsel next submits that the petitioner came to be implicated based on the restatement of the informant, wherein he disclosed that when he called on the mobile of his sister the same was picked by one boy who disclosed his name as Mustak (petitioner). The learned counsel next submits that the said allegation also forms part of the FIR, but the informant in the FIR does not even remotely suggest that the phone was picked by Mustak this amply demonstrates that the informant by way of afterthought implicated the petitioner. The learned counsel next submits that no doubt the petitioner and the deceased were known to each other and were in love but their relationship was being objected, it is next submitted that from perusal of the case diary, it would manifest that no investigation has been carried out even to remotely connect the petitioner with the offence, it is further submitted that during the



course of investigation, it has not transpired that the petitioner, in any manner, was in contact with the deceased either on the date of occurrence or prior to the date of occurrence, it is next submitted that the entire allegation hinges around suspicion, further even the *post-mortem* report does not indicate that the deceased was sexually assaulted, though marks of violence were found on her body.

Learned counsel for the petitioner submits that charges have been framed and the petitioner will co-operate in the trial and will appear on each and every date as and when required by the learned trial court.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner, but fairly submits that after perusal of the case diary, it manifests that the *post-mortem* report does not indicate sexual assault.

Considering the submission made by the learned counsel for the petitioner, the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the learned trial court where the case is pending/successor court in connection with Madhubani Town P.S. Case No. 358 of 2021.



In the event, if the learned trial court comes to a conclusion that petitioner after his release is trying to delay the trial in any manner, the learned trial court shall forthwith cancel his bail bonds after recording reasons and all coercive steps shall be taken to put the petitioner behind bars.

(Satyavrat Verma, J)

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