

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34617 of 2023

Arising Out of PS. Case No.-38 Year-2021 Thana- VIJAYEPUR District- Gopalganj

MUKUL SHAH, Son of Sugriv Shah, Resident of village - Amwa Ghat, P.O. -
Bharpurwa, P.S. - Vijaipur, Distt. - Gopalganj, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prince Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 21-07-2023 1. Heard learned counsel for the petitioner and
learned APP for the State of Bihar.

2. The petitioner is apprehending his arrest in
connection with Vijaipur P.S. Case No. 38 of 2021 registered for
offence under Sections 376, 341, 323, 504 and 34 of Indian
Penal Code (hereinafter referred as “IPC”).

3. On 19.02.2021, the petitioner as per allegation has
committed rape upon the informant. It is further alleged that
three days thereafter, again he has attempted to commit rape on
21.02.2021 when the informant has managed to flee. On
objection being raised by the prosecution parties, it is alleged
that the petitioner and his family members have assaulted the
informant and her daughter (the victim).

4. Learned counsel for the petitioner submits that it is



out and out a false case. The petitioner bears a clean antecedent and over a trivial issue arising from the fact that the petitioner's mobile was taken on loan by the informant which she was not returning, the prosecution has been lodged under Section 376 of IPC which has been found to be unsustainable in the course of investigation wherein chargesheet has been submitted for Sections 341, 323, 504, 354B and 34 of IPC. There is no medical evidence to support the allegation of rape and the delay of four days itself casts a great suspicion of doubt on the entire prosecution case. The injury report submitted with respect to the victim shows that she has sustained some very minor simple injuries.

5. Learned APP for the State has opposed the prayer for bail.

6. Considering the allegations, the result of investigation, clean antecedents of the petitioner and lack of medical evidence in the investigation, this Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

7. Petitioner's prayer for anticipatory bail is allowed.

8. Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, 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, Gopalganj, in connection with Vijaipur P.S. Case No. 38 of 2021, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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