

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37603 of 2023

Arising Out of PS. Case No.-11 Year-2023 Thana- DUMARIAGHAT District- East
Champaran

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HASHIM ANSARI @ MD. HASHIM ANSARI, S/O MUSTKIM ANSARI,
R/O Village-Jalwa Toli, Hussaini, P.S.-Dumariya Ghat, Dist.-East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr.Rahul Singh, Advocate
For the State : Mr.Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 2 28-07-2023 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 Dumariya Ghat P.S. Case No. 11 of 2023
registered for offence under Section 376 of Indian Penal Code.
3. The prosecutrix has alleged that she has been
repeatedly subjected to rape by the petitioner since 05.07.2020
as per the complaint petition. The last occurrence in the sequel
of repeated rape is said to be on 22.03.2021. The complaint has
been lodged on 08.04.2021.
4. It is submitted by learned counsel for the petitioner
that the entire prosecution case is palpably false. The petitioner
in fact is a married person living with his family in Motihari and



the prosecutrix resides with her children. Her husband, who is elder brother of the petitioner, is earning his livelihood abroad. The issue prompting the lodging of the instant case is for share in the family property. The petitioner has no antecedents and the manner in which complaint has been lodged, containing allegations of repeated rapes since more than an year prior to the lodging of the complaint, having regard to the relationship of the victim and the petitioner being *Bhabhi* and *Devar*, is unbelievable and based on extraneous considerations.

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

6. Considering the allegations, the delay in lodging of the complaint case and other attending circumstances as per submission recorded above, as also clean antecedent of the petitioner, 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



Judicial Magistrate 1st Class, Motihari, East Champaran, in connection with Dumariya Ghat P.S. Case No. 11 of 2023, 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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