

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41938 of 2023

Arising Out of PS. Case No.-39 Year-2023 Thana- TERHAGACHH District- Kishanganj

Niraj Kumar Nirala Son Of Late Ramji Rajak Resident Of Village- Gosai Tola
Ward No. 6, Murliganj, Ps- Murliganj, Distt- Madhepura, The Then Officer
Incharge Of Terhagachh Ps, Distt- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 42995 of 2023

Arising Out of PS. Case No.-39 Year-2023 Thana- TERHAGACHH District- Kishanganj

Manoj Kumar Yadav Son Of Hiranand Yadav Resident Of Village - Matiyari
Balwadangi, Dakpokhar, P.S. - Terhagachh, Distt. - Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50506 of 2023

Arising Out of PS. Case No.-39 Year-2023 Thana- TERHAGACHH District- Kishanganj

Md. Moinuddin @ Moin Son Of Md. Ibrahim R/O Village- Khagra, Paswan
Tola, Ward No.-32, P.S.- Kishanganj, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41938 of 2023)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv
Ms. Vaishnavi Singh, Adv
Mr. Sadanand Paswan, Adv

For the Opposite Party/s : Mr. Jitendra Kumar Singh

(In CRIMINAL MISCELLANEOUS No. 42995 of 2023)

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Adv.
Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Rajesh Kumar

(In CRIMINAL MISCELLANEOUS No. 50506 of 2023)

For the Petitioner/s : Mr. Md. Jubair Ansari

For the Opposite Party/s : Mr. Madhuri Lata



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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

4 27-09-2023 Heard the learned counsel for petitioners and learned
APP for the state.

2. The petitioners apprehend their arrest in connection with Tehragachh P.S. case no. 39 of 2023 registered for the offences punishable under sections 343, 376(B), 384, 385/34 of Indian Penal Code.

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3. As per the prosecution case, the informant was married to one Md. Manowar Alam and she had to come to Tehragachh to search for her husband. Petitioner Niraj Kumar Nirala, who was officer-in-charge of Tehragachh police station confined and kept the informant for eight days and forcefully committed rape upon her and also threatened her of dire consequences in case she complained about her sexual exploitation.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in this present case. The allegation made in the F.I.R. is false and malicious. In the FIR, an enquiry report was annexed but its complete report has not been annexed and only one page has been made a part of the FIR, the complete investigation report



will show that allegation of physical assault by the petitioner is incorrect, and further, on date when the informant came in search of her lover/husband, she stayed in the female constable barrack along with female constables. The petitioner has a clean and fair antecedent.

5. He further submits that the matter of fact is that the present informant is a resident of Uttar Pradesh working at Ludhiana, where she met one Md. Manawar, who was also working at the same place and both started living together at Ludhiana. Later on Md. Manawar left her and came to his native village after taking her all money and other articles, subsequently the informant came in search for Md. Manawar and the said information was given to the Niraj Kumar Nirala who was the officer-in-charge of the Tehragachh police station at the relevant time and he requested the local Mukhiya to enquire about the whereabouts of the Md. Manwar. Local Mukhiya traced out the said Md. Manwar. Then Md. Manwar and his family members refused to solemnise marriage with the informant and also they were insisting to convert the religion of the informant. The conversation of the informant has also been recorded in the Pen-drive during panchayati in which she has stated that under the false pretext of marriage Md. Manawar



established a physical relationship with her for a long time and he fled away after snatching 2.00 lakhs and other articles from her without solemnising marriage. Subsequently, she came searching for him and now he is refusing to solemnise marriage.

6. He further submits that the informant has never gone to the residence of the petitioner and she was staying in the company of lady Constables namely Shanti Kumari and two others which will also be proved from the CCTV camera installed in the present police station. She was moving freely anywhere while she was staying with the lady constables. The lady constables also stated in their statement that the informant has gone to Nepal and other places.

7. It is further submitted that the present case was instituted against the petitioner Niraj Kumar Nirala at the behest of a higher police officer who belongs to the community of Md. Manvar because he was not in favour of converting the religion of the informant for the purpose of marriage with Md. Manawar. The medical examination report will also completely falsify the allegation levelled by the present informant. It is evident from the FIR itself that she had not given any date as to when she came to Tehragachh police station and when was local Mukhya was called and when her-in-laws families were allegedly traced



out and called and during which period she was allegedly physically assaulted by the petitioner and when was she sent back to Uttar Pradesh and similarly, when has she returned back to present place.

8. It is further submitted that the present case has been instituted for falsely implicating the petitioner and lodged by the informant under pressure and for ulterior motive after changing her religion and performing the marriage with the Md. Manawar. Therefore the petitioner must be enlarged on the privilege of anticipatory bail.

9. Learned APP for the state opposed the prayer for anticipatory bail of the petitioner. He submits that petitioner is actively involved in the alleged crime. All the witnesses in the case diary have supported the allegations against them. The mobile CDR mentioned in paras 63 and 64 of the case diary suggest the presence of victim at Tehragachh and also the fact that petitioner talked to her eighteen times on mobile. The victim has supported the allegations against the petitioner during her statement under section 164 of Cr.P.C. and other witnesses also in para 54, 55, 56, 57, 58 and 59 of case diary have supported the allegation against the petitioner. Therefore, he must not be enlarged on benefit of anticipatory bail.



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10. As per prosecution case, allegation against the petitioner Manoj Kumar Yadav is that he, being representative of the mukhiya has extorted Rs. 2.00 lakhs from the informant and with conspiracy with accused Niraj Kumar Nirala forcefully got her sit in the train and sent Uttar Pradesh and threatened her of dire consequences if she complained about her physical assault and extortion. When she returned back petitioner Manoj Kumar Yadav and accused Niraj Kumar Nirala continuously threatening her.

11. Learned Senior counsel for petitioner submits that petitioner is innocent and falsely implicated in the present case. Petitioner's mother is the Mukhiya and he is the representative of Mukhiya and due to local politics he has been made accused in this case. Petitioner has been called by the Petitioner Niraj Kumar Nirala, who is officer-in-charge of Tehragachh Police Station and told to trace out the husband of informant and he being mukhiya representative traced the husband of informant and after that the marriage was solemnised between the parties. Petitioner has a fair and clean antecedent.

12. He further submitted that the petitioner is never involved in the alleged crime. There is not any allegation of rape



against the petitioner. The only allegation against the petitioner is that he has taken two lakhs rupees from the informant which is concocted and manipulated. There is not any specific allegation of sexual exploitation against this petitioner, therefore, he must be enlarged on privilege of anticipatory bail.

13. Learned APP for the state opposes the prayer for anticipatory bail of the petitioner and submits that petitioner being mukhiya representative rather helping the informant extorted Rs. 2.00 lakhs from her and also threatened her of dire consequences and forcefully sent her Uttar Pradesh by getting sit on the train. The petitioner has conspired with the main accused Niraj Kumar Nirala and abated the offence of confinement of the victim continuously for eight days and her sexual exploitation by the main accused Niraj Kumar Nirala. Therefore, he must not be enlarged on privilege of anticipatory bail.

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14. As per the prosecution case, accused Niraj Kumar Nirala has confined the informant and forcefully committed rape upon the informant. Petitioner is the private driver of the accused Niraj Kumar Nirala.

15. Learned counsel for the petitioner submits that the



petitioner is innocent and has falsely been implicated in the present case. Petitioner is not named accused in the F.I.R. Informant has made accused only two persons Niraj Kumar Nirala and Manoj Kumar Yadav. Petitioner has been made accused in this case on the basis of statement of the witness Razi Ahsan, who said that petitioner was going Nepal by bike and one girl was seating behind him. He further submits that informant knows petitioner's name but she does not made accused him in the F.I.R. since she was knowing that petitioner is private driver of accused Niraj Kumar Nirala and he is only obeying the order of the accused Niraj Kumar Nirala. Informant has not named the petitioner even in her statement under section 164 of Cr.P.C before the Judicial Magistrate. Petitioner has a fair and clean antecedent.

16. Learned counsel for the petitioner further submits that there is no specific allegation against this petitioner and also victim has not named him in the FIR or her statement under Section 164 of the Cr.P.C., therefore, he must be granted privilege of anticipatory bail.

17. Learned APP for the state opposes the prayer for anticipatory bail of the petitioner. Petitioner is the private driver of the petitioner Niraj Kumar Nirala, although he is not named



in the F.I.R. but witnesses in the paras 58 and 59 of the case diary have stated that the petitioner has taken the victim to Nepal and further in Para 64 of the case diary also mentioned that petitioner has talked fourteen times with the victim which suggests of his role as abettor of the crime.

18. Heard the argument of the parties at length and perused the materials on record, petitioner Niraj Kumar Nirala of Cr. Misc. No. 41938 of 2023 being officer-in-charge of the PS Tehragachh rather helping the victim confined her for eight days and forcefully committed rape by misusing his power and position. From the investigation report of office of S.P. Kishanganj also it appears that petitioner Niraj Kumar Nirala kept the informant in the police station without any legal procedure and without making any entry in the police station diary or without informing the senior officer which points toward illegal confinement. Similarly petitioner Manoj Kumar Yadav of Cr. Misc. No. 42995 of 2023, being Mukhiya representative rather helping the victim extorted Rs. Two lakhs from her and in conspiracy with petitioner, Niraj Kumar Nirala, threatened her of dire consequences if she complained about her physical assault and extortion. Petitioner, Md. Moinuddin, of Cr. Misc. No. 50506 of 2023, was private driver of the accused



Niraj Kumar Nirala, he could have simply ignored the order of him. Thus, all the petitioners are actively involved in the alleged crime.

19. Considering the aforesaid facts and circumstances and the fact that they are actively involved in the alleged crime, I am not inclined to grant the petitioners the privilege of anticipatory bail. The prayer for anticipatory bail of the petitioners is hereby rejected.

(Anjani Kumar Sharan, J)

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