

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52111 of 2023

Arising Out of PS. Case No.-662 Year-2022 Thana- MAHUA District- Vaishali

Md Mustaq Son Of Late Md Ashalam R/O-Mahua Mukundpur (PAHAR
Tola), P.S.-MAHUA, Distt.-VAISHALI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Chandra Ojha, Advocate

For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 18-08-2023 Heard the parties.

The petitioner is in judicial custody in connection with Mahua P.S. Case No. 662 of 2022 under Sections 341, 342, 323, 354(B), 363, 366, 376, 504, 506 and 34 of the Indian Penal Code lodged on 21.10.2022 by the informant, Munni Khatoon.

As per the prosecution story, the informant alleged that the victim girl was taken by the petitioner along with another accused and subsequently raped her. She returned to her parents home, followed by the FIR.

Learned counsel for the petitioner submits that the allegation is of 22.9.2022 and the FIR came to be lodged on 21.10.2022 and the delay of one month has not been explained in the FIR. Further, contrary to the allegation, a perusal of the



learned Sessions Judge's order would show that the age of the girl has been found to be 22 years and no sexual assault/internal/external injuries have been found on the person of the victim girl.

The last submission is that he is in custody since 3.5.2023 (para-5 of the petition).

Learned APP opposes the prayer stating that the allegation of rape is there.

Having gone through the facts and circumstances of the case, the submission put forward by the learned counsel for the petitioner, the observation of the learned Sessions Judge shows that girl is 22 years of age and no sexual assault found on her person, the delay of one month in lodging of the FIR which has not been explained, the petitioner has remained in custody since 3.5.2023, this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate-1st Class, Vaishali at Hajipur, in connection with Mahua P.S. Case No. 662 of 2022 subject to the following conditions:



(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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