

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62506 of 2023

Arising Out of PS. Case No.-95 Year-2023 Thana- JAMALPUR District- Munger

=====

RITESH KUMAR GUPTA SON OF DINESH PRASAD GUPTA RESIDENT
OF VILLAGE- SONAPATTI, PS- JAMALPUR, DISTT- MUNGER

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. KHUSHBOO BACHHAN WIFE OF RAHUL KUMAR BACHHAN
RESIDENT OF VILLAGE- 16 ALVERT ROAD, NAYAGAON, EAST
COLONY, PS- EAST COLONY (JAMALPUR), DISTT- MUNGER
PRESENTLY RESIDING AT VIKRAMSHILA NAGAR, BEHIND
GANGULI SCHOOL, KAHALGAON, PS- KAHALGAON, DIST-
BHAGALPUR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Jyoti Ranjan Jha, Advocate
For the State	:	Ms. Sangeeta Sharma, A.P.P.
For the Informant	:	Mr. Kumar Kamal Nayan, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 11-10-2023 Heard learned counsel for the petitioner, informant
and the State.

2. Petitioner apprehends arrest in a case registered for
the offences punishable under Sections 341, 323, 354B, 504,
506 of the Indian Penal Code.

3. Prosecution case, in brief, is that one Khushboo
Bachhan lodged a written application before Officer-in-Charge
of Model Police Station alleging therein that on 17.05.2023, at
about 10:50 am, she had gone to the house of this petitioner who
is resident of Sonapatti where she was abused and manhandled



by this petitioner as a result of which she received injury on her hand. She further alleged that the accused used to call her repeatedly and upon refusal, he used to threaten her. Lastly, it is alleged that this petitioner repeatedly mounted pressure upon her to make physical relation.

4. It is submitted on behalf of the petitioner that petitioner is quite innocent and has falsely been implicated in this case by the informant with a sole view to refute the allegation of adultery leveled by her husband in Divorce Case No. 91/2022 dated 18.05.2022 which is pending in the court of Learned Principal Judge, Family Court Munger, in which petitioner has been impleaded as O.P. No. 2. He further submits that informant is well acquainted with the petitioner for a very long time, and subsequently, this proximity developed into a relationship between the parties which led to the filing of a divorce case by the husband of the informant. It is an admitted fact that informant is a 34 years aged lady, having two children. This petitioner runs a jewellery shop and the informant, who is major, regularly used to visit the shop of the petitioner and in this course, they developed a relation which led to bitterness between the informant and her husband which resulted in filing of a divorce case and, as such, allegation of blackmailing and



harassing the informant is totally imaginary. F.I.R. nowhere spells out any wrong committed by this petitioner, however, during course of investigation, she developed the prosecution case and alleged commission of rape against the petitioner in her statement recorded under Section 164 Cr.P.C. which cannot be relied and believed.

5. Learned counsel for the informant vehemently opposes the bail application and submits that the victim in her statement recorded under Section 164 Cr.P.C. had stated that this petitioner committed rape with her after intoxicating her.

6. Both parties are major, enjoyed each others company for a long time and it also appears that they indulged in sexual act which cannot be said to be a case of passive submission rather there was a tacit consent and said consent given by the informant was not the result of misconception. The relationship between the petitioner and the informant cannot be said to be involuntary.

7. In that view of the matter, this anticipatory bail is allowed and it is ordered that let the above named petitioner in the event of his arrest/surrender before the court below within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two



sureties of the like amount each to the satisfaction of Chief
Judicial Magistrate, Munger in connection with Jamalpur P. S.
Case No. 95 of 2023, subject to condition as laid down under
Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

Navya/-

U		T	
---	--	---	--

