

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64394 of 2023

Arising Out of PS. Case No.-66 Year-2021 Thana- MAHILA P.S. District- Araria

Md. Imtiyaj Alam @ Sonu Son Of Md. Nazibullah Village- Mohanpur
Katahara Ps- Chhatapur Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kishore Bharti, Advocate

For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 17-10-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with Mahila P.S. Case No. 66 of 2021 dated 21.09.2021, instituted for the offence punishable under Sections 341, 323, 366, 376(D)/34 of the Indian Penal Code.

3. The prosecution case in short, is that on 03.07.2021 at about 10:00 pm, the informant was returning to her matrimonial house from her parental house and when she was crossing the bridge near Rampur village, then accused petitioner along with two other co-accused persons namely Md. Sabir and Md. Sajid and two unknown persons caught her and put the cloth in her mouth. Thereafter, accused persons carried her in a four wheeler and blindfolded her and when she took off



blindfold, she found herself in a room. It is further alleged that the accused person namely, Md. Imtiyaj (petitioner) gave assurance of marriage and locked her in a room and all the accused persons named in the F.I.R. committed rape with her.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is further submitted that date of occurrence is 03.07.2021 but the F.I.R. was lodged on 21.09.2021 after lapse of more than two months. It is further submitted that younger sister of the informant namely Janutun filed a complaint case bearing Complaint Case No. 504C/2021 against the petitioner and his father on 31.08.2021 for kidnapping and rape of the present informant in which cognizance has been taken under Sections 323, 341, 504 of the Indian Penal Code on 11.11.2022. It is further submitted that it is evident from Complaint Case No. 504C/2021 that date of occurrence has been mentioned as 25.06.2021 and kidnapping was done by two motorcycle borne miscreants and the present informant has been examined as Enquiry witness No. 1 in the said complaint case on 28.07.2022 in which she has stated a different story. It is further stated that after completion of investigation, charge-sheet has been submitted bearing charge-sheet No. 54/2022 dated 22.09.2022



as non Cognizable against the petitioner but the learned S.D.J.M., Supaul, has been pleased to take cognizance also under Section 376(D) /365 of the Indian Penal Code against all the accused persons on 02.03.2023. Learned counsel further submitted that there is a vital contradiction in the F.I.R. and the complaint case. Lastly, it has been submitted that the petitioner has one criminal case against him.

5. Learned A.P.P. has opposed the prayer for bail of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioner within a period of six weeks from today, in connection with Mahila P.S. Case No. 66 of 2021, he shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M, Araria, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Khatim Reza, J)

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