

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8831 of 2024

Arising Out of PS. Case No.-913 Year-2022 Thana- DEHRI TOWN District- Rohtas

MADAN PRASAD SRIVASTAVA S/O LATE NAND SRIVASTAVA R/O
IDGAH MOHALLA, WARD NO. 23, P.S- DEHRI (TOWN), DISTT.-
ROHTAS.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Tiwari, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 21-03-2024 Heard learned Counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Dehri Town (Dalmiyanagar) P.S. Case No. 913 of 2022 for the offence registered under sections 406, 420, 467, 468, 376(D) and 34 of the Indian Penal Code lodged on 01.12.2022 by the informant, Guriya Kumari.

3. As per the prosecution story, the informant has alleged that she was pursuing study in the College opened by this petitioner but later she came to know that it is a fake college and she is not going to get the B.Ed. Degree. Upon confrontation, it is alleged that he took her in a room with the help of two persons and there committed rape. Further, a video



was prepared and threatened that if any complaint is made, the same will be made viral. Accordingly, the FIR.

4. Learned Counsel for the petitioner has taken this Court to paragraph nos. 9, 10 and 13 of the petition which read as follows:-

“9. That in the present case neither the case was sent for investigation under the process of 156(3) Cr. P.C nor the victim girl has been examined by the medical board.

10. That as per the prosecution case rape has been committed with the complaint on 23.4.2022 and complaint case has been lodged on 12.7.2022 but no any explanation has been given for the alleged delay in such a heinous crime, which shows that the entire prosecution case is absolutely false and concocted.

13. That it may also humbly be stated that there is already dispute between the parties and petitioner has lodged Sanha before S.D.J.M., Dehri, Rohtas on 30.01.2021 vide Sanha No. 74/2021 and Sanha No. 946/2022 dt. 20.5.2022.”

5. Earlier a co-ordinate bench had called for the case diary which is now on record and as per paragraph-45, the police has recorded that she was requested to have a medical check-up in the Sub-Divisional Hospital, Dehri but she refused to go through it. Further, in her subsequent statement recorded



u/s 161 of the Cr.P.C. in paragraph no.-2 of the case diary, she skipped the allegation of rape and instead it has been alleged that he indulged in obscene act, the same statement has been recorded in paragraph-50 of the case diary also.

6. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that as per the FIR, he committed rape.

7. Though allegation of rape is against this petitioner, the case diary clearly shows that the lady refused to go for the medical examination by a proper Medical Board and further in a subsequent statement of paragraph -2 and 50 of the case diary, she has not alleged rape rather allegation has come down to obscene act, he is 70 years of age, FIR lodged, will be facing the trial, this Court is inclined to extend him privilege of anticipatory bail.

8. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Dehri, Rohtas in connection with Dehri Town (Dalmiyanagar) P.S. Case No. 913 of 2022 subject to condition as laid down under



Section 438(2) of the Cr.P.C.

(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 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;

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

(Rajiv Roy, J)

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