

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10692 of 2024

Arising Out of PS. Case No.-178 Year-2021 Thana- SAMASTIPUR District- Samastipur

Sushil Kumar Choudhary Son of Jai Narain Choudhary Resident of village-
Magardahi, Ward No.-15, P.S.- Town, Dist.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhay Shanker Singh, Advocate

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 08-05-2024 Heard the parties.

2. The petitioner is apprehending his arrest in connection with Samastipur Town P.S. Case No. 178 of 2021 for the offence under Sections 341, 323, 354B, 504, 506, 34 and 376 of the I.P.C. lodged on 12.09.2021 by the informant, Poonam Devi.

3. As per the prosecution story, the informant who is sister-in-law (bhabhi) has alleged that recently she became widow and the petitioner had an eye on her and in continuation of that one of his associate after dragging her in the room and after outraging her modesty, committed rape. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that they are closely related being '*devar*' and '*bhabhi*' and a perusal of the FIR would show that in a joint family where the children of all the family members are present as also the wives, such kind



of occurrence in the day time is impossible. He submits that the police investigated the matter and came to the conclusion that there was an issue relating to the shop between the parties, in which, some scuffle took place. The police also recorded the fact that there is a counter version to the present case also.

5. Learned counsel for the informant on the other hand submits that whatever happened on the day stands inscribed in the FIR. He not only criminally assaulted the informant but also brought an outsider in such heinous act, he as such, opposes the prayer.

6. This Court has gone through the facts of the case as also the case diary which was called by a coordinate Bench on 11.03.2024 and the report submitted by the Town P.S. Samastipur which is part of the case diary has been perused according to which, it has been alleged that informant's late husband also has two other brothers, the petitioners being one of them, she wanted her share in the property for which the relationship was strained, earlier also the FIRs were lodged and in continuation of that on the particular day due to locking/unlocking of a shop, the incident took place. As per the learned counsel for the petitioner, he will be cooperating in the investigation and will diligently appear in trial, this Court is



inclined to extend him the privilege of anticipatory bail with conditions.

7. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned CJM, Samastipur in connection with Samastipur Town P.S. Case No. 178 of 2021 subject to the conditions 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/her 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.

(Rajiv Roy, J)

Adnan/-

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