

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12073 of 2024

Arising Out of PS. Case No.-14 Year-2021 Thana- MAHILA P.S. District- Araria

Shahjad Alam @ Md. Shahjad Son of Kalim @ Md. Kalim Resident of
Village- Haldiya Ward No. -09, P.S.- Simraha, district- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Md Ziaul Quamar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 25-10-2024 Heard Md. Ziaul Quamar, learned counsel for the

petitioner and Mr. Mithlesh Kumar Khare, learned Additional

Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
29.09.2023 in connection with Mahila (Araria) P.S. Case No. 14
of 2021, F.I.R. dated 23.01.2023 for the offences punishable
under Sections 376(D), 341, 323, 307/34 of the Indian Penal
Code.

3. According to prosecution case, this petitioner
committed rape upon the informant on the pretext of marriage.
It is further alleged that all the accused persons including this
petitioner have took the informant to the maize field and one by
one committed rape upon her and also threatened her to make
the photos and videos viral.



4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. He further submits that it has come during investigation that one co-accused, namely, Eklakh @ Md. Ekhlaque along with the petitioner and other accused persons have committed rape upon the informant and the DNA of the co-accused, Eklakh matched with the DNA of the child of the informant. He further submits that the police after investigation submitted the charge sheet against the petitioner. He further submits that co-accused, namely, Eklakh @ Md. Ekhlaque has been granted bail by a Coordinate Bench of this Court vide order dated 20.09.2023 passed in Cr. Misc. No. 48718 of 2023. The petitioner is in custody since 29.09.2023.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the petitioner is named in the F.I.R and apart from that the statement of the victim was recorded under Section 164 of the Cr.P.C. in which she has categorically stated that the petitioner along with other accused persons have committed



rape upon her and the medical report also confirms that the occurrence has taken place.

6. Vide order dated 28.08.2024, a report was called with regard to the stage of the trial. Report of the learned Trial Court dated 21.09.2024 reveals that till date no prosecution witness has been examined.

7. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in the near future and the co-accused person has been granted bail by a Co-ordinate Bench of this Court.

8. Considering the aforesaid facts and circumstances that the petitioner has clean antecedent, co-accused person has been granted bail by a Co-ordinate Bench of this Court as well as report of the learned Trial Court, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Araria in connection with Mahila (Araria) P.S. Case No. 14 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court



and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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